RULES

FOR THE

GUIDANCE OF PUBLIC OFFICERS

IN THE ADMINISTRATION

OF THE

LAND ACQUISITION ACT (X OF 1870),

WITH COPY OF THE ACT.

PUBLISHED BY THE AUTHORITY OF THE BOARD OF REVENUE, L. P.

PREFACE.

C. T. Buckland, Esq.

The issue of a revised series of rules for the guidance of officers in the administration of the Land Acquisition Act, X of 1870, has become necessary in consequence of changes of procedure which have been introduced since the last edition of the rules was published. Some of the alterations have been already notified in the Board's circulars, while others are merely verbal emendations of the text. Several important amendments, however, are now promulgated for the first time in these instructions, and as they materially affect the procedure under the Act, it is desirable to direct special attention to them.

2. The principal change introduced is referred to in clauses 19 and 23 of Section I, which prescribe the mode of determining the value of revenue-paying land and of dealing with abatements of revenue. These rules are entirely based on the rules framed by Government under section 59 of the Act, which form the introduction to this series.

3. There is an essential difference between the procedure now enjoined and the practice which has prevailed hitherto, the nature of which it is important that every officer who prepares an estimate or makes an award under the Act should rightly understand. Under the former practice the authority determining the amount of compensation awarded a certain sum, representing in itself the full value of the land free from the burden of Government revenue; in other words, he calculated the market value of the land as if no Government revenue were demandable therefrom, the net rent (*i.e.* the rent, less cost of collection) being taken as the measure of compensation to be awarded; and it was then left to the Revenue authorities either to pay the whole amount down in cash, or to pay a part only of the sum awarded in that form, and, in lieu of the rest, to allow the proprietor an annual abatement of the revenue demand upon the parent estate remaining in his possession, which should be equivalent at the current rate to the capitalized amount of which immediate

payment was withheld. But this mode of calculation is no longer applicable under the present rules. The Collector in determining the market value of the land to be acquired must now take it for granted that the liability of the proprietor for the land revenue of it will cease; in other words, under rule V of the Government rules, the Collector should calculate the compensation on the basis of the actual price for which the estate subject to the burden of the payment of Government revenue will sell in the market. The measure of compensation will therefore be the proprietor's net profit (*i.e.* the rent, less cost of collection and the amount of Government revenue).

4. No fixed rule, however, can be laid down for determining the market value; but generally it will be convenient to adopt the following formula for calculating the amount whenever the requisite data are obtainable—

$$x = d \times \left\{ b - (a + c \right\} ;$$

where x represents the market value;

a	,,	the amount of annual Government revenue chargeable on the plot of land to be acquired;
b	,,	the annual gross assets or rental of the land;
c	,,	the cost of collection;
d	,,	the number of year's purchase at which the owner's net profit should be computed.

The amount of the award would then be Rs. x + Rs $\frac{15\,x}{100}$ (the additional compensation payable under section 42 of the Act at the rate of 15 per centum) + the amount of damages and expenses assessed under clauses 2, 3, and 4 of section 24 of the Act.

5. In clauses 7, 10, 17, 18, and 19 provision is made for the preparation of accurate estimates, and it is expected that by careful attention to the instructions extravagant estimates will be avoided.

6. Clause 22 has introduced a very material change in the method of treating cases of free gift of land by the proprietors.

7. Clause 25 contains a useful direction as to the mode of classifying claims and interests in respect of land under acquisition.

8. Experience has shown the necessity there exists for the Government interest being fully represented in all cases of references under the Act to a Civil Court, and with this object

the instructions contained in clause 29 for regulating the conduct of a Collector in such matters have been prepared.

9. Clause 38 indicates the time and manner of obtaining possession of the land, and has been drawn up with the view of checking what has been a frequent source of complication and difficulty under former procedure—viz. the irregular occupation of lands (for the most part by officers of the Public Works Department and the Railway Companies) before the proceedings for the acquisition have reached a sufficiently mature stage.

10. The procedure laid down in clauses 42 and 43 when payment is to be made for service lands should be carefully noticed.

11. Clause 45 contains an important rule for the adjustment of the cost of the land and the nature of the revenue abated when the land is taken up for a Municipality, District Road Committee, Company, or the like.

12. Clause 53 introduces a complete change in the procedure for the submission of the final report of proceedings in acquisition cases, and requires especial notice.

13. The principal alterations in the rules have been briefly referred to. Other changes of more or less importance will be found in various parts of the rules, more particularly in clauses 1, 3, 15, 34, 35, 41, and 55.

14. The forms of statements in the appendix have all been revised to suit the new rules.

W. H. GRIMLEY,
Offg. Secretary.

BOARD OF REVENUE, L. P.,
The 10*th July* 1877.

LAND ACQUISITION FOR PUBLIC PURPOSES.

THE following rules have been promulgated by Government under section 59 of Act X of 1870 (vide *Government Gazette* of 7th July 1875, page 818), and have the force of law:—

WHEREAS the basis of compensation to be awarded for revenue-paying lands taken up under the provisions of Act X of 1870 is intended by the said Act to be the actual price for which the land, subject to all its burdens, and among others to the burden of the payment of land revenue, would sell in the market, it is necessary that the exact amount of the revenue demand should be ascertained and recorded before the award of compensation can be determined; and whereas, under the provisions of the existing law, the Revenue authorities, and none other, can regulate the amount of the revenue charge to be enforced against an estate, or a portion of an estate; and whereas some of the rules already promulgated under section 59 of the said Act proceed on assumptions which are at variance with the principle above enunciated, the following revised rules are issued by the Government of Bengal, with the sanction of the Governor-General in Council, in supersession of those previously in force:—

I.—Whenever any revenue-paying land shall be acquired under the Act, the proprietor shall, except as provided in rule VI, be relieved of liability to pay revenue to the extent of the Government demand upon the said land, and such relief shall have effect from the date on which the Collector may take possession of the land on account of Government.

II.—In such cases the Collector shall, before making a tender, or a reference to a Court regarding compensation, ascertain in accordance with the following rule, and record the amount of Government revenue which is to be taken as payable in respect of the acquired portion, and shall, in event of a reference being made to a Court, furnish the Court, at the time of making the reference, with particulars of the amount of the share so ascertained and recorded.

III.—If the land to be acquired be an entire estate or tenure assessed with a specific amount of revenue, the whole of such amount shall be remitted.

IV.—If the land be not liable for a specific amount of revenue, but be a portion of an estate or tenure which is liable for a specific amount, the proportion of Government revenue to be deemed payable in respect of the land taken shall be ascertained under the following rules:—

1*st.*—When an estate has, within twenty years next preceding the date of commencement of proceedings for acquisition of any land situate therein, been subjected to a detailed settlement, or has formed portion of an estate brought under division under Regulation XIX of 1814,* made after inquiry into and record of the assets of the estate, the Government revenue to be deemed payable in respect of the said land shall bear to the assets of the said land the same proportion as the Government revenue of the whole estate bears to the assets of the whole estate, as shown in the settlement or division proceedings.

* In the territories under the Lieutenant-Governor of Bengal, this Act has been superseded by Act VIII (B.C.) of 1876.

2*nd.*—When there may have been no such settlement or division as aforesaid, then, if the area of the estate is known with accuracy, the amount of Government revenue to be deemed payable in respect of the portion of the land taken shall bear to the Government revenue of the whole estate the same proportion as the area of the said portion bears to the area of the whole estate.

3*rd.*—When the Government revenue deemed payable in respect of the land taken cannot be determined by either of the above rules, one-fourth of the net rent (*i.e.*, the gross rental less a deduction of 10 per cent. for the expenses of collection) of the said land shall be taken to be the amount of Government revenue thereon chargeable.

V.—In determining the amount of compensation to be tendered, the Collector shall take into consideration the fact that the land acquired is subject to the burden of the payment of Government revenue.

VI.—In the event of the proprietor declining to accept an abatement of revenue, such circumstance shall

not entitle him to any compensation over and above the amount tendered on the original basis of calculation. In cases, however, in which the area of the portion of land acquired does not exceed more than one-twentieth part of the area of the estate, it shall be competent to the Revenue authorities, if the proprietor of the estate so desire, to pay to the proprietor the computed value of the revenue deemed payable in respect of such portion, on the condition of his continuing to pay the revenue of the entire estate without abatement: provided that in computing the value of the revenue so assigned, the basis of calculation shall not exceed the number of years' purchase (if known) upon which the market value of the proprietor's profits, *i.e.*, the tender of compensation, has been determined. Thus, if the market value of the said profits has been computed at 12 years' purchase, the capitalized value of the revenue deemed payable in respect of the portion of land acquired shall be calculated at not more than 12 years' purchase of the amount of revenue in question.

VII.—When there is any doubt whether the land to be acquired is part of a revenue-paying estate, or is revenue-free, the Collector shall, before making the reference to the Court, which under the circumstances he would be required to make by section 15 of the Act, determine the amount of revenue which would be deemed payable in respect of the land acquired in the event of the land being adjudged by the Court to be a portion of the revenue-paying estate of which it is alleged to form a part.

VIII.—To enable the Collector to calculate accurately the additional compensation to be given under section 42 of the Act, and to enable him to keep up fully and clearly his registers of all lands occupied and compensation paid for them, the Collector shall invariably record separately his finding under the first head of section 24 of the Act, which concerns the market value of the land, and also the specific portion of the compensation which he may award for any houses, trees, or crops upon the land.

IX.—The procedure laid down for a reference under section 15 shall be held applicable to a reference under section 43.

X.—The procedure to be followed in the apportionment of the compensation awarded on account of lands taken up for temporary occupation shall be in accordance with the provisions of Part IV of the Act.

XI.—On the date on which payment of compensation in any case may become due under section 41 of the Act, the Collector shall tender the amount to such of the persons entitled to receive it as may be present at

his office in person, or by agent duly authorized to receive the same, informing them at the same time that in the event of their refusal to accept the amount tendered, no claim to interest will be entertained. Should any such person be absent and have no authorized agent at the Collector's Court, the Collector shall serve a notice upon him, calling upon him to attend in person or by agent, within one week of his receipt of the notice, to receive the amount due to him, and warning him that on failure to appear, within the period above named, no interest whatever will be paid to him. Should such person neglect to appear within the time specified, the Collector shall, on being satisfied of the due service of the notice, invest the amount of the compensation money due to such person in Government securities, and hold the same in deposit until the amount shall be applied for by the person entitled to it.

On the application of such person, the Collector shall give him the option of receiving the Government securities, *plus* any cash balance which has been too small for investment, or the sum which would have been paid to him had he come according to notice. The Collector shall follow the same course in regard to any compensation money which may be refused by a person entitled to receive it, provided that such investment shall be limited to even sums of Rs. 500, or multiples of Rs. 500 The amount of compensation, if less than Rs. 500, and any fractional part, if the compensation is above that sum, shall be held by the Collector in deposit.

SECTION I.—GENERAL RULES ISSUED UNDER THE AUTHORITY OF THE BOARD OF REVENUE FOR THE GUIDANCE OF PUBLIC OFFICERS IN THE ADMINISTRATION OF THE LAND ACQUISITION ACT X OF 1870.

Delegation of the powers of a Collector.

1. By the definition in section 3 of the Act, the expression "Collector" means the Collector of a district, or a Deputy Commissioner, or "any officer specially appointed by the local Government to perform the functions of a Collector under this Act." The Collector cannot delegate to another any of his judicial functions, but he can make over any of his ministerial functions. For instance, he may depute a subordinate to map the ground or make a local inquiry, but he cannot delegate to another the duty of determining the amount of compensation. Whenever, therefore, it may be necessary to employ an Assistant or Deputy Collector to perform duties under the Act involving the exercise of judicial functions, the Collector of the district must apply through the Commissioner to the Board to have him vested by the local Government with the necessary powers under section 3. It is usual to vest officers with the powers of a Collector under the Act either in a particular district or place, or for the purpose

of taking up land for a particular object. It should be understood that the powers vested in an officer cease, in the one case, on his transfer or removal from the district or place concerned, and in the other as soon as the special purpose for which he was appointed has been accomplished.

Officer vested with powers to be well acquainted with law and rules.

2. No officer should be recommended for investment with powers under the Act unless the Collector to whom such officer is subordinate is satisfied that he is well acquainted with the provisions of the law and the rules and instructions promulgated thereunder.

Preliminary investigation under sections 4 and 5.

3. Sections 4 and 5 lay down certain rules under which preliminary investigation may be made into the condition and circumstances of lands which the local Government may consider *likely to be* needed for any public purpose. These sections, however, seldom come into operation, and are only required in cases in which uncertainty may exist as to the position of the land to be taken up or its suitability for the purpose for which it is required, or when operations on a large scale are in contemplation and it is necessary to determine the line of a road, canal, or other important work. The form of notification is given in form A. Attention is called to the words italicised above; and it should be observed that whenever a notification has been issued under section 4, it must be followed by a declaration under section 6, as soon as it is decided to proceed with the acquisition and the position and boundaries of the land to be acquired have been fixed and determined.

By whom to be conducted.

4. The conduct of the preliminary investigation will be entrusted to such officer as the Government may generally or specially authorize for the purpose.

Issue of public notice.

5. After publication of the notification under section 4 in the local Gazette, due notice of its substance will be publicly given by the Collector at convenient places in the locality, and the Collector must invariably apprise the officer entrusted with the preliminary investigation of the issue of the Gazette notification. No officer should commence preliminary investigation until he is certified of the issue of notice.

Survey and preliminary plan of the land.

6. After receipt of intimation of the issue of the public notice from the Collector, the officer entrusted with the preliminary investigation will then proceed, as necessary, to examine the land, survey, dig, bore, and otherwise ascertain the suitability of the land for the purpose required, and will prepare such a preliminary map or plan of the land, and collect such further information, as will assist the Collector in forming an estimate of the probable cost of taking up the land. A memorandum accompanying the map should specify generally the character of the land, *e.g.*, whether waste, cultivated, or jheel, &c, and the nature and probable value of buildings, trees, &c.

Preliminary estimate of cost.

7. The map and memorandum will be made over to the Collector, who will prepare an estimate of the probable cost of the land, and of the houses and other properties on it. In making this estimate the Collector will consult his records, and use all the means at his command to obtain the nearest approximation to the probable outlay which can be obtained without a detailed valuation of the property. Detailed and final valuation can only be made after the declaration has been issued and the regular survey required by section 8 has been completed; but the Collector must bear in mind the explanation given in clause 23 below of the mode in which the value of the land (when revenue-paying) is to be arrived at.

Investigation under section 5.

8. The investigation to be made by the Collector in cases referred to him under section 5 is a summary one. The law gives him no power to take evidence on oath in conducting it. He may order a local inquiry, which he is at liberty to make either in person or by deputy, who, if the claim be for any sum exceeding Rs. 300, should be a Covenanted Officer or a Deputy Collector. The responsibility for the proceedings and for the award will, however, in all cases rest with the Collector.

Submission of draft declaration under section 6.

9. If the land is required for Public Works purposes, the Collector will forward the preliminary map with his memorandum or estimate of cost, and also a draft of declaration in form B, for issue under section 6, to the Executive Engineer, for submission to Government through the usual channel; but if the land is required for other Departments or for a Company, the Collector will (unless otherwise ordered) forward the documents to the chief local representative of the Department or Company for which it is required for submission to Government through the head of the Department.

Preparation of estimate and draft declaration when there is no investigation under sections 4 and 5.

10. When no preliminary investigation has been made under sections 4 and 5, the Collector, if the land is required for the Revenue Department, will prepare the necessary preliminary estimate and draft declaration in form B for publication under section 6, and forward them through the Commissioner and the Board for the orders of Government. If the land be required for any other Department or for a Company, some duly authorized officer on behalf of the Department or Company must supply the Collector with the particulars, so far as known, of the land required. But in all cases the Collector will verify the information given by inquiry on the spot, and attach a certificate to his estimate of value, to the effect that "the rates have been arrived at after local inquiry and inspection of the ground."

Their submission.

11. If the land be required for Public Works purposes, the Collector will then forward an estimate of the cost of the land and a draft of declaration in form B, for issue under section 6, to the Executive Engineer, for submission to Government

through the usual channel; but if the land is required for other Departments or for a Company, the Collector will (unless otherwise ordered) forward the documents to the chief local representative of the Department or Company for which it is required for submission to Government through the head of the Department.

Care in preparation of estimates by reference to registration and other records.

12. The special attention of Collectors is drawn to the necessity for making their initial estimates (whether under clause 7 or clause 10 above) of the cost of land to be taken up as accurate as possible. Careless estimates not only throw out the calculations of the Department for which the land is to be acquired, but, if they err by excess, are likely, though in no way binding on Government, to prejudice the public interests by giving colour to extravagant claims at a later stage of the proceedings. As plots of land similar to those to be acquired change hands from time to time, and records of many, if not all, of these transactions are to be found in the several Registrars' offices, the Collector should test the valuation by a careful examination of the registration records, whenever this source of information may be available. In Orissa he should consult the settlement records.

Declaration what to contain.

13. The law does not require that the declaration under section 6 shall specify the precise boundaries or area of the land to be taken. This, however, is advisable when no doubt exists as to the actual quantity which is required; but where there is a doubt, the declaration should be so generally worded, that no impediment may afterwards arise from its terms to prevent the appropriation of all the land that can possibly be required. In the case of land required for a road, canal, distributary, railway, &c., unless there is any reason to the contrary, it will be sufficient to give in the declaration the approximate area, length, breadth, and the general direction of the land for the road, with the names of the district, pergunnahs, and villages through which the road will pass.

Issue of declaration, and sanction of estimate.

14. When issuing the declaration, Government will also sanction the estimate, and communicate this sanction to the chief office of the Department through which the reference has been made, and also to the Board of Revenue and the Examiner of Public Works Accounts, or the Accountant-General, as the case may be; and will also state against what particular item of the budget the expenditure is to be charged.

Demarcation and departmental map, and preparation of plans, (a) when land is required for other than the Revenue Department, &c.

15. After the issue of the declaration, the officer who was entrusted with the preliminary investigation, or, in case no such investigation shall have been held, some officer on behalf of the Department or Company for which the land is required—such Department not being the Revenue Department—will, if this has not already been done,

mark out, on the requisition of the Collector, the boundaries of the land, and furnish the Collector with a plan or map of it. The Collector will then proceed to make a detailed survey of the land. For this purpose he may employ any of his subordinate staff who may be acquainted with surveying. In important cases sanction to a special establishment must be applied for. The cost of this establishment and all other charges incurred for the purposes of the acquisition will be costs in the case. Wherever practicable, the survey should be made by chain and prismatic compass and be plotted by scale, and the officer conducting it should prepare a detailed record of his survey and measurements, and an abstract, or *khatian*, grouping together the plots of lands and other property found in the possession of each person interested. The officer who has conducted the preliminary investigation, or some other competent officer deputed by the Department for which the land is to be occupied—if that Department be other than the Revenue Department—will, on the requisition of the Collector, point out the boundaries of the land to be taken up, whether such boundaries have been demarcated under section 4 or not. On receipt of the plan and measurement papers, the Collector should test them by comparison with the map and specification of area supplied by the Department for which the land is required, and in case of discrepancy have an inquiry made, and, if necessary, call on such Department to point out the boundaries a second time. The plan or map should be prepared on paper of the same quality as that used by the Survey Department for village maps. It should shew in one or more clearly coloured blocks the land acquired under the declaration and the scale on which it has been prepared. In the margin of the plan it should be stated that "the land acquired for (*specify the purpose*) as shewn in this plan is coloured (pink or blue or green) and contains an area of so many acres, and is bounded as follows:—

North by
East by
South by
West by"

These particulars should be transcribed in English in the Collector's Office; and when the map or plan has been finally approved by the Collector under the provisions of clause 17, an authenticated copy should be forwarded to the Board of Revenue for record, prepared on tracing cloth. The maps or plans so forwarded will be bound up in the Board's Office in separate volumes for each district, and each volume will contain an index in the form given in Appendix O. There will be special volumes for lands acquired for railways, canals, and municipalities, and in these cases the maps or plans need not be bound up in separate volumes for each district.

Demarcation and map, &c., (2) when land is required for the Revenue Department.

16. If the land be required for the Revenue Department, the necessary demarcation and the preparation of the map will be, of course, carried out by an officer deputed for the purpose by the Collector.

Inquiry into rates, &c.

17. When the Collector has satisfied himself that the two plans represent the same land, he ought, where this appears advisable, to have the survey tested on the spot, making on such testing any alteration that may seem necessary. He will also ascertain the rates of rent paid, and record them, and appraise the quality of the land and the value of the houses, trees, or crops upon it. The Collector may delegate to a Covenanted Officer or Deputy Collector, or in certain cases to a Sub-Deputy Collector or other duly qualified subordinate, the conduct of the inquiry into rates and values contemplated in this clause.

Revised estimate Report of excess over preliminary estimate.

18. With the data thus obtained, the Collector will be in a position to revise the initial estimate referred to in clauses 7 and 10. Too great care cannot be taken in making the examination. The amount of the revised estimate should be recorded, and if it exceed the amount of the original estimate by 15 per cent., the Collector should at once stay proceedings and report the probability of such excess to the Executive Engineer, in the case of land required for Public Works purposes, or, in the case of land required for any other Department or for a Company, to the chief local representative of the Department or Company for which it is required, that it may be ascertained whether the object sought cannot be otherwise secured, either by obtaining some other plot of land than that originally contemplated, or in some other way. The same course should be followed if at any time before award or reference to the Civil Court the Collector has reason to believe that the cost of acquisition will considerably exceed the estimate.

Revised estimate what to contain: (1) ordinarily; (2) when the land is revenue-paying.

19. In preparing the revised estimate, the Collector should take into account the matters specified in section 24 of the Act as well as the additional compensation of 15 per cent. which is payable on the market value under section 42. When the land is revenue-paying, he should carefully observe the directions of clause 23 as to the mode in which the value of the land is to be determined, and he should at the same time record the amount of Government revenue which is to be deemed payable in respect of the land, and state by which of the modes mentioned in rules III and IV of the Government rules the amount has been ascertained; and where the area of the land does not exceed one-twentieth of the area of the parent estate, he should note the amount of the capitalized value of the revenue which will have to be paid to the proprietor, in addition to the market value, in the event of the arrangement described in rule VI of the Government rules being agreed upon between the Collector and the proprietor.

Issue of notices under section 9, and their form.

20. As soon as the operations prescribed by the last preceding clause have been completed, the Collector will proceed under section 9 of the Act. Should the land be occupied by, or any portion of it belong to, or be in the possession of, Government, the personal notice required by the law should be served on the chief local representative of the Department interested. Forms of notice will be found in Appendices C and D. A form of requisition under section 10 is given in Appendix E.

Collectors to enforce, when necessary, provisions of clause 2, section 10.

21. The attention of Revenue officers is called to the provisions of clause 2 of section 10 of the Act, recourse to which will obviate delay, when the Collector has not the information required to enable him to serve the necessary notices under section 9.

Cases of free gift of land how to be dealt with.

22. Whenever the proprietor of any land, which may be required to be taken up by Government, offers to make an absolutely free gift of it, or to give it provisionally for a particular purpose, on the understanding that when no longer wanted for that purpose it shall revert to him, it will not always be necessary to carry out the procedure prescribed by the Act, but the following rule will apply. In cases in which all the interests in the land are given free of cost, *i.e.* where a zemindar agrees to hand over the land free of all encumbrances to Government, himself settling with the under-tenants, the donor should be required to execute and register a deed of gift, the cost of stamping and registering such deed being borne by Government. When, however, some interests, but not all, are given, it will be a matter for consideration whether it is worth while to accept the gift, and the Collector should report such cases for the orders of the Board If the Board determine to accept the gift, a deed of gift will be taken from the donor and acquisition proceedings under the Act will then be carried out, Government taking the donor's place in respect of the interest conveyed by the deed of gift. If the Board decide to decline the gift, it will of course be necessary to carry out the procedure laid down in the Act in respect of the whole of the interests concerned.

Collector's duty under sections 11 to 15. Mode of dealing with abatement of revenue.

23. Sections 11 to 15 lay down the rules according to which the Collector is to conduct his inquiry into the value of the land and into the amount of compensation to be awarded to the persons interested in it, and the conditions upon which he is either to make the award himself or to refer the matter to the decision of the Court. The Collector's attention has already been directed to the rules promulgated under section 59 of the Act, and having the force of law, which are published at the beginning of these instructions. It will be observed that the procedure in the case of revenue-paying land has by these rules been materially altered. In every case, as the rules now stand, acquisition of land under the Act entitles the proprietor to release from liability for any revenue charge upon

it, and it is the duty of the Collector, before determining the amount of compensation to be tendered or allowed in the case of any revenue-paying land which is under acquisition, to ascertain, in the manner laid down in rules III and IV of the Government rules, the amount of Government revenue which is to be deemed payable in respect of such land, and to record this for the purposes of the subsequent proceedings. He will then determine the market value of the land, *i.e.* the price which it would command in the market *while continuing subject* to the payment of the ascertained amount of land revenue. It is upon this market value, and upon this only, that the additional compensation of 15 per cent. under section 42 must be calculated and paid. The proprietor receiving the market value is also entitled to have his revenue abated by the amount of revenue to which his estate is liable if the land acquired be a whole estate or tenure assessed with a specific amount of revenue, or by the amount assessed by the Collector as above upon the land acquired, and this abatement must in every case be offered. It is only in cases where the area of the land acquired does not exceed one-twentieth of the area of the estate that the Collector is at liberty, if the proprietor desires this, to pay to him the capitalized value of the revenue demand on the land on condition of his continuing to pay the revenue of the entire estate without abatement. The capitalized value will be calculated in the way prescribed in rule VI of the Government rules. If the proprietor decline to receive an abatement of revenue, he is not at liberty to claim its capitalized value or to demand any further compensation on that account. The only case in which he can claim a further sum in consideration of his continuing to pay the revenue is when the area acquired is less than one-twentieth of the area of the whole estate, and then only if the Revenue authorities see fit to agree to the payment of this capitalized value of such revenue.

Under what circumstances Collector may make award.

24. Section 15 specifies five separate conditions, on the occurrence of any one of which the inquiry is taken out of the Collector's hands. Four of these conditions, viz. the first, third, fourth, and fifth, read together with that specified in section 14, limit his jurisdiction to the single instance in which all persons whom he may have reason to believe interested in the land have presented themselves, raise no question among themselves as to their several rights and interests in the land, and accept the amount of compensation offered. Even in the absence of any difficulties or objections on the part of the persons interested, the Collector can, under the second condition specified in section 15, hand the matter over to the Court, if for any good reason he considers that further inquiry as to the nature of any claim preferred before him ought to be made by the Court.

Mode of classifying claims and interests.

25. It is not always necessary, or even desirable, to treat the whole land covered by a declaration as a single case, the objection to doing so being that if a single claimant or interested

person fails to attend, the whole matter must be sent to the Court, very often greatly to the inconvenience and expense of those parties who have attended and agreed to the Collector's tender. The land may ordinarily be divided into separate portions or plots, and separate proceedings be held as regards each plot, provided only that *the basis of division be land, and land alone. It is not permissible to divide off the separate interests in a particular plot and treat each as a separate case.* The general practice should be to split up the block of land covered by the declaration into a number of separate and distinct plots, each plot representing, *not a separate interest, but a separate claim.* There is a wide difference between a separate interest and a separate claim. A may be interested in a piece of land as a zemindar, B as a putnidar, C as an under-tenant, but the three interests of A, B, and C make up only one claim. The Collector has nothing to do with the separate interests of A, B, and C: he awards compensation calculated on the market value of the land, and if A, B, and C cannot agree to divide among themselves the total sum awarded in proportion to their separate interests, the Civil Court must apportion the amount under Part IV of the Act. The point for inquiry, it should always be borne in mind, is the whole value of the land.

Reference to Court of dispute as to apportionment.

26. Section 38 provides that even after the amount of compensation has been settled with the parties, if any dispute arises about the apportionment of that amount, the Collector shall refer such dispute to the decision of the Court—the award, however, as regards the total amount of compensation remaining final. If no such dispute occur, the particulars of the apportionment are, under section 37, to be specified in the award

Grounds of Collector's tender to be fully explained.

27. In conducting his proceedings as to the award, the Collector should invariably explain carefully to the parties before him the provisions of sections 24 and 25, informing them that on the principles therein enunciated his own award and that of the Court, if reference be made to it, must be based; and that if the case goes to the Court, and the sum ultimately awarded as compensation by the Court do not exceed the amount tendered by himself, the whole costs of the proceeding before the Court will fall on them under section 33.

Tender to include value of buildings, trees, and crops.

28. The award to be made by the Collector must of course include the value of any buildings and trees standing upon the land, and of such crops as the parties interested shall not agree to remove.

Collector to defend the reference to the Court as a Government suit

29. When a reference has been made by the Collector under section 15 to the Court, the Collector should defend the case exactly as he would a Government suit. The claimant in such cases is to be regarded as the plaintiff and the Government as defendant; and it is the duty of the Collector to see that

evidence is forthcoming to shew the fairness of the amount which he was willing to give as compensation. As soon as the claimant files his written statement in the case in Court, the Government Pleader should apply to the Court for a copy of it for the information of the Collector, to enable the Collector to meet the case set up by the plaintiff with suitable evidence. The Collector must remember that the Court will decide on the evidence before it what amount of compensation is to be given, and he must therefore be prepared with reliable evidence at the trial. In important cases he should consult the Legal Remembrancer as in ordinary civil suits. At the time of the award of the Court being declared, the Collector, or the officer who appears on his behalf, should request the Judge to state the amount of costs incurred in the proceedings, and by what persons and in what proportions they are to be paid.

Reference to Court under sections 15 and 43

30. In the case of lands taken up for a canal, road, or railway, the reference to be made by the Collector to the Court under section 15 or 43 must in no one case cover more land than is included in any one of the mile plans prepared by the surveyor in measuring lands of this description.

Additional compensation.

31. The Collector's attention is drawn to rule VIII of the Government rules, which directs him to record a separate finding, under the first head of section 24 of the Act, for the calculation of the additional compensation.

Awards to be made with due caution.

32. An award made by a Collector cannot, if it is made in accordance with the provisions of the law, be subsequently amended by any authority. Officers should therefore be most careful, before making an award, to take all precautions to avoid error or oversight.

Reference by Assistant or Deputy Collector to Collector before tender of compensation.

33. Whenever proceedings under the Act are conducted by an Assistant or Deputy Collector empowered, under the provisions of section 3, to act as a Collector, such officer may, if the amount of his intended award be within the sanctioned estimate, make the award without further reference. If it be beyond the amount of the sanctioned estimate, he must consult the Collector of the district demi-officially, and will make his final award according to the instructions received from the Collector. The Collector, however, is at liberty, if he sees fit, to require a reference to be made to him in all cases before the award is given. The completion report of every case under the Act, and every progress report, when such reports are submitted, must be subscribed with a certificate signed by the officer making an award under section 14 that "the prices awarded are not in excess of those for which similar lands are actually sold in the same parts of the district;" or, in case such officer should be unable to find evidence of the circumstances of actual sales, that "the prices awarded are not greater than those which similar lands in the same parts of the district might be reasonably expected to

command." It is the duty of the Commissioner, in forwarding the progress reports to the Board, to record his opinion in respect to the suitability or otherwise of the awards shown in them.

Reference not required in special cases.

34. In special cases it is competent to the Board to exempt officers empowered to take up land under the Act from the obligation of referring their proceedings for the approval and confirmation of the Collector of the district. As reference to the Collector involves delay and some harassment to parties, the Commissioner will apply to the Board for this exemption whenever he thinks the officer taking up the land is fully competent to make a final award on his own responsibility.

Reference to Commissioner when compensation exceeds Rs 10,000.

35. In cases where the amount of compensation which it is proposed to tender exceeds in any one case Rs. 10,000, a reference must be made to the Commissioner, whether the officer conducting the proceedings be the Collector himself or a subordinate empowered under section 3 of the Act. Generally the reference should be demi-official. In the former case the Collector should, after making the requisite inquiries under section 11, postpone his final award under the provisions of section 12, and report his opinion on the case to the Commissioner, forwarding at the same time all documents which may seem necessary to enable that officer to judge of the propriety of the proposed award. Similarly, in the second case, the necessary papers should be forwarded to the Commissioner with the Collector's own opinion on the propriety of the tender proposed by the officer empowered under section 3. The Commissioner will either confirm the proposed tender or call for further information if necessary on any point.

Responsibility of Commissioners and Collectors in promptly disposing of cases.

36. Commissioners and Collectors will be held responsible for these references being disposed of with despatch. Any unnecessary delay in dealing with such cases not only embarrasses the Department for which the land is required, but may seriously enhance the cost; for it has been ruled that, on a reference to the Civil Court, the Judge and assessors are bound to consider the market value of the land *at the time of the award of compensation by the Court.* Hence if, from any cause, the market value rises in the interval while the papers are under consideration of the Commissioner or Collector, as the case may be, the original estimate may be greatly exceeded. The knowledge that proceedings are pending may of itself tend to enhance the market value of land.

Taking possession under section 16.

37. Section 16 empowers the Collector to take possession of the land as soon as he has made an award or a reference to the Court, and the Act empowers no one else to do so. It is to be distinctly understood that occupation of the land by any other officer or person without written authority from the Collector is illegal. When land has been taken up for the use of the Public Works Department, possession will be given by the Collector to the

Executive Engineer, or to some person duly authorized in writing by the Executive Engineer to receive it, and to no other person. Where a reference has been made to a Court, the Collector, if the land is not required for immediate use, may at his discretion defer taking possession of it until the award of the Court has been declared.

Occupation under section 17

38. In cases of urgency, section 17 allows occupation by the Collector, under special orders from the local Government, before award or reference; but the Collector should be careful to obtain the orders of Government before taking possession, and should wait until the expiry of 15 days from the date of the publication of the notice mentioned in the first paragraph of section 9. It is also necessary, in regard to this section, to observe that it applies to "waste and arable" land only, and not to land occupied by roads, tanks, buildings, &c. There is, however, no objection to land or buildings being informally occupied if necessary provided all the parties interested consent in writing to the land being occupied in anticipation of the formal orders, and that it is understood at the time that the taking of such possession is without prejudice to the right of Government to be acquired under the Act in respect of such land or building. Formal possession must, however, be afterwards taken under the Act in supersession of the previous possession acquired by consent.

Nomination of assessor under section 19.

39. Sections 18 to 36 regulate the procedure to be adopted by the Court in the investigation of cases referred by the Collector. The only sections among them, other than sections 24 and 25 already referred to, which concern the Collector, are sections 18, 19, and 35, and their provisions call for no special remark, except that the assessor to be nominated by the Collector under section 19 should be, as a rule, an officer of Government specially selected for that purpose, and that all the rules in force relating to appeals in civil suits in which Government is concerned apply to appeals instituted against or on behalf of Government under section 35.

Collector is responsible for disbursements under sections 40 to 42.

40. The rules for payment are contained in sections 40 to 42 of the Act, and rule XI of the rules promulgated under section 59. Rule XI has been framed in accordance with the principle that section 42 of the Act cannot be construed to give a claimant a right to any interest if the non-receipt of the principal is due to his own neglect, or to impose upon the Collector the trouble of seeking his creditors in order to pay them. The Collector is, however, personally responsible for the disbursement of the amount, as soon as it falls due, under the provisions of those sections, and is properly applied for; and neglect or carelessness in this respect may render him liable to pay any interest which may accrue under section 42 of the Act. If the amount to be disbursed is likely to exceed the funds at the Collector's command, he should take timely steps for obtaining, in accordance

with departmental instructions, the necessary supply of money before the date on which the payment becomes due; but that payment must in any case be made when due and properly applied for. The amount which may be paid under rule VI of the Government rules is not liable to any interest charge under section 42, as it *does not form part of the award of compensation.*

Initial references to be made by the Collector under section 38, after which interested parties to conduct their own cases at their own cost.

41. The cost of serving processes or any other costs should not fall on the Government in cases which are referred to the Civil Court under section 38. All that section 38 requires is, that when the amount of compensation has been settled under section 14, if any dispute arises as to the apportionment of the same, or any part thereof, the Collector shall refer such dispute to the decision of the Court. When the Collector has referred the dispute, he has done all that is required of him. To complete the matter, however, he should serve notices on the parties interested through his own peons, stating that he has made the reference required by section 38. The parties interested must then look after their own interests, and take proceedings to obtain the decision of the Court on the subject of their dispute. There is no reason why the Government should be called on to look after the serving of processes of the Court or to pay for them, unless the Government itself should, for any special cause, desire to expedite proceedings, in which case the Government must bear the costs.

Procedure when payment is to be made for service lands.

42. When the lands have been held heretofore free of rent in cash or kind, or on a quit-rent on condition of the performance of some public service, the Collector, in cases of doubt as to the proper procedure, should refer the matter to the Board, in view to obtain instructions for the due protection of the Government interest in the apportionment of the compensation, in respect to its lien for the purposes of the public service, and to enable him to represent this where necessary before the Civil Court.

Procedure to be followed in cases of service lands.

43. In cases in which the land held free or on a quit-rent is held by a paik or village chowkidar, the value of the holding should be separately assessed and recorded, and should be included in the total amount of compensation to be allowed in the award. The value so ascertained should not be paid to the service-holder, but should be placed in deposit and appropriated according to the following rules:—

(i)—When the area of the acquired land forming a single holding, or portion of a single holding, is equal to or exceeds a beegha, the sum so placed in deposit should be applied for the purpose of purchasing another piece of land, similar in quality and quantity to the first piece, and situated adjacent to it, or in its immediate neighbourhood. If the amount of deposit is not sufficient to purchase the land required to compensate the holder

40A.—A register will be kept in each Collector's office in the form given in Appendix Q., with specimen entries, showing separately the receipts and disbursements on account of each land acquisition case. The amount due to each individual in each case will be shown as a distinct item in the treasury register of deposits received, and must not be credited in a lump sum with the sums due to the other persons concerned in the same case. Sums of money deposited to meet the claims of two or more different persons should not be invested in a single promissory note, unless the Collector has no knowledge of the sum separately payable to each person. In the beginning of the register a few sheets should be left blank for an index, giving the particulars of each case, and showing the persons to whom money is payable and the folios of the ledger in which the amounts payable are shown. At the close of each month a comparison of the balances shown in this register with the balance in the Bank's accounts should be made. 3-8-77.

of the service land, the difference should be made good by Government, and the amount charged to land revenue, care being taken that due economy is observed and unreasonable claims are not admitted. This second piece of land should be acquired under the provisions of the Act, and should be made over to the holder of the service land, to be held by him on the same terms as the original holding was held at the time of its acquisition.

(ii)—When the area of land acquired is less than a beegha, it will not be worth while going through the process enjoined above. Instead of doing so, annual interest should be paid to the service-holder at the rate of 6 per cent. on the sum held in deposit; provided that as soon as the aggregate acquisitions of land forming portions of a single holding, or of the holdings of a single individual, amount to a beegha or more, a fresh piece of land may be acquired and made over to the service-holder in the manner indicated above, payment of interest ceasing from the date of the transfer. The amount of interest should be sent out annually to the service-holder by the Collector, at the cost of Government, without waiting for any application to be made for it.

This rule is applicable only to cases occurring since the 31st March 1874.

Disbursement of costs under sections 8 and 4.

44. The Collector must disburse all costs of measurement under section 8. Costs when incurred under section 4 will be disbursed by the officer entrusted with the preliminary investigation.

Adjustment of cost of land, and value of revenue abated when land is taken up for Municipalities, &c.

45. Whenever land is acquired for any purpose which is not strictly a Government purpose, as for a Municipality, a District Road Committee, or a Company, or the like, the whole cost of acquisition should be charged to such Municipality, Committee, Company, or other body of persons, as the case may be. Provided that when the land is revenue-paying land in respect of which an abatement of revenue has been granted, in addition to the cost of acquisition, the Municipality, Committee, Company, or other persons concerned shall be required to pay to Government the capitalized value of the revenue assigned to the land calculated at the current rate for capitalizing annual payments made to or by Government.

Abatement to have effect when possession of the land has been taken.

46. As soon as possession of the land has been taken, the Collector should give effect to any abatement of revenue which may have been determined on in connection with it.

Additional compensation under section 42.

47. The attention of Collectors is called to the provisions of section 42, by which an additional compensation of 15 per cent. on the *market value*, not the total award, is to be paid to the owners of the land occupied. In other words 15 per cent. is not to be added to compensation awarded in consideration of any of the matters specified in clauses 2, 3, and 4 of section 24. Nor is

it to be added to the amount which may be paid under rule VI of the Government rules as the capitalized value of the revenue deemed payable in respect of the land acquired, as that amount *does not form part of the market value of the land.* A table is given in Appendix N for calculating the additional compensation. Collectors should be careful, when making an offer for the land to be taken, to see that that offer is based strictly on the grounds prescribed by the law. They should also, at the time of making the offer, inform the proprietors that they will receive 15 per cent. over and above the market value of the land. If this be not borne in mind, it will sometimes happen that 15 per cent. will go to the proprietors in excess of what they agreed to, or of what the Collector intended to award.

On trees, houses, &c.

48. As under section 3, trees, houses, and other immovable things standing on land under acquisition for public purposes are included in the definition of the word "land," the value of such things *minus* the cost of repairs of houses should always be included in the Collector's estimate of the market value of the land, and the additional compensation under section 42 must be paid on the lump sum.

To be paid in all cases except under agreement.

49. It should be borne in mind that it is a presumption of law that the surrender of land acquired under the Act is compulsory. The additional compensation of 15 per cent. must therefore be paid in all cases, except where, under special agreement, the parties have accepted a lump sum, and distinctly waived or included therein the claim to any additional compensation under section 42. In all such cases this agreement must be taken in writing, and filed with the proceedings.

Temporary occupation of land under sections 43 to 45.

50. Sections 43 to 45 prescribe the procedure to be followed in procuring *temporary* occupation of waste or arable land. In these cases no declaration is required by the law, but with this reservation all the procedure prescribed in clauses 16 to 22 above will apply as far as the case requires. Generally, also, the procedure required after issue of declaration, in the case of lands to be taken up permanently, will be applicable to cases of temporary occupation under these sections.

Acquisition of land for Companies under sections 46 to 50.

51. Sections 46 to 50, making special provision for the terms on which Government will take up lands for the use of Companies, need no particular comment. The officer of any Company for whom Government may undertake to acquire land will, when authorized under section 4, proceed according to the instructions already given. Under section 50 the agreement must appear in the *Gazette of India*, as well as in the local official Gazette, before proceedings can be taken under section 8 of the Act.

Compensation under section 54 made on summary inquiry.

52. The amount of compensation under section 54, as under section 5, will be fixed by the Collector on a summary inquiry, and without record of evidence on oath, and is final.

53. The Collector will prepare and submit to the Commissioner with each case a final report of his proceedings, with full information classified under the following headings :—

Final report of acquisition proceedings.

1. Account of any preliminary investigations under section 4, and of any award made by the Collector on reference under section 5 of the Act.
2. Date and full particulars of the declaration under which the land was acquired.
3. Description of the manner in which the land was measured, and the agency by which the plan was made according to section 8.
4. Full particulars (with dates) of the issue and service of (*a*) the general and (*b*) special notices under section 9, and (*c*) of proceedings under section 10.
5. Report of the inquiry held under section 11, the names of all who attended in person or by agent on the day fixed, and of all postponements under section 12.
6. Report of the award made by the Collector under section 14, with full particulars as to any abatement of revenue, and the capitalization of the same, with statement of the date from which any abatement takes place.
7. Date on which possession was taken under section 16 or 17, or in any other manner.
8. Full particulars of any reference made to the Civil Court, and of the proceedings before the Civil Court; the steps taken to support the Collector's award, assessors' appointment, &c.
9. Copy or substance of the award under section 34, and recorded grounds thereof, with particulars as to costs, and explanation of any difference between the award of the Court and Collector's tender.
10. Report of any proceedings in appeal from the decision of the Civil Court.
11. Proceedings regarding the apportionment of compensation under Part IV of the Act.
12. Proceedings regarding payment under Part V of the Act.
13. Account of any proceedings under Part VI of the Act.

All the above headings will not have to be filled up in every case, for instance, when there is no reference to the Civil Court. On the other hand, they are not exhaustive, and every officer is required to supply any additional information that may not fall under any of the above headings. Under headings 4 to 12 of the final report, each of the *claims* or *cases* separately treated under clause 25 above will bear a distinct number, and will be indicated by the same number in Appendix F. Thus all the information

regarding each *claim* or *case* will be easily traced through the headings of the final report. This report will be accompanied by a statement of the particulars of the award in form F. When the officer submitting the final report is not the Collector of the district, he will submit it through the Collector of the district.

Special note to be made in final report of proceedings under section 44, and payments under section 54.

54. A special note must be made in the final report of any proceedings connected with the relinquishment of land under section 44, and of any compensation paid under section 54.

Disbursement how to be made, and bills to be submitted.

55. Whenever a special officer is deputed for taking up lands for Imperial or Provincial purposes, as for a railway, canal, or road, he will be supplied with funds by the Examiner of Public Works Accounts by means of credit orders, and he will render to that officer monthly accounts of expenditure as prescribed for a civil disbursing officer. He will also submit to the Board monthly bills accompanied by the award statement (Appendix F) prescribed by clause 58 below. In all other cases the Collector will make the necessary disbursements from his general treasury balance, and will enter the expenditure in his cash account under the head to which it is properly debitable for adjustment by the Accountant-General. In cases in which the amount of a single payment does not exceed Rs. 50 or 100, the Collector or special officer as aforesaid may, if he thinks fit, arrange to relieve the payee from the trouble of coming into head-quarters to receive the money by forwarding to him the amount in cash, whenever his residence for the time being is situated at a greater distance than 10 miles from the Collector or other officer's head-quarters. With the final report and Appendix F, prescribed in clause 53 above, should be submitted a bill in the form given in Appendix G, which should in every case be countersigned by the Commissioner. The Board of Revenue will pass on the bill with their countersignature, for audit, to the respective Officers of Accounts concerned, viz.—

1. Bills for lands taken up for Guaranteed Railways to the Examiner, Public Works Accounts, Bengal.
2. Bills for Imperial Civil Buildings and Irrigation Works to the Examiner, Public Works Accounts, Bengal.
3. Bills for Provincial Buildings and Roads to the Examiner, Public Works Accounts, Bengal.
4. Bills for other Provincial lands, the declarations for which issue from the general branch of the Secretariat, to the Accountant-General, Bengal.
5. Bills for Military Works to the Examiner, Military Works Accounts, Simla.
6. Bills for State Railways to the Examiner of the respective Railway Accounts.
7. Bills for District Roads to be returned to the Commissioner for submission to the Chairman of the respective Road Committees.

Costs decreed for and against Government how to be shown in bill.

56. In cases referred to a Court in which costs have been decreed against Government, the amount of the costs should be entered in the abstract bill in Appendix G, after the item "other expenses incurred in taking up the land," under the heading "costs decreed against Government." Costs decreed to Government, although realized from the owner of the land by deduction from the amount of compensation paid, being of the nature of advances recovered, should not be taken *in abatement of the price paid for the land*, and should not therefore be shewn in the body of the abstract. The amount, however, with an explanatory note, should be entered in the column of remarks, and should also be distinctly credited in the treasury cash accounts.

Data and vouchers of compensation paid to be shown in bill.

57. The data on which the price of the land has been fixed should also be entered in the column of remarks. When the amounts of compensation have been disbursed out of funds supplied by the Examiner of Public Works Accounts by means of credit orders, the fact should be noted at foot of the bill. In all other cases the numbers and dates of vouchers on which the amount of compensation, &c., have been drawn from the treasury, and the fund or particular item of the budget against which the expenditure has been charged, should be noted on the reverse of the bill.

Submission of monthly bills with form (F).

58. When lands are taken up for a road, or any other purpose that necessitates the consecutive acquisition of several plots of land, monthly bills, accompanied by the awards (Appendix F) of the amounts charged in them, should be submitted after the lapse of six months from the publication of the declaration, until the work is completed. This clause, however, does not dispense with the submission of the final report and Appendices F and G prescribed by clauses 53 and 55 above when the proceedings for the whole of the land covered by the declaration are closed.

Abatements of revenue to be entered in the monthly bills and in return No. IX.

59. When the nature of operations under the Act requires submission of monthly bills, the value of abatements of revenue should be included in the items of cost entered, and the abstract in every case filled up. District officers will regard the passing of these monthly bills as sufficient authority for including in their quarterly return No. IX all abatements of revenue covered by such passed bills, the Board's orders being quoted in each instance.

Alienations to be noted in general register (A).

60. Alienations of land from revenue-paying estates under this Act should be carefully noted against the estates in the Collector's general register (A). Similar entries in the rent-free land register should be made for lakhiraj lands taken.

Registration of receipts.

61. With reference to section 17, clause 3 of the Indian Registration Act (III of 1877), the Board are of opinion that every receipt for

Rs. 100 or more of compensation paid under the Land Acquisition Act (X of 1870) should be registered. It is to be observed that separate receipts for less than Rs. 100 need not be registered, even though they concern one plot of ground and aggregate Rs. 100 or more.

Collector's order under this Act cannot be set aside or modified.

62. The Commissioner and Board of Revenue cannot set aside or modify any order passed by the Collector under this Act.

63.. Besides the returns mentioned in clauses 53 and 55 above, the following returns are required to be submitted periodically to the Board :—

Periodical returns.

Quarterly Return No. XVIII.—Progress in taking lands for public purposes.

Annual Return No. XXIV.—Estimate of compensation for lands to be taken for public purposes.

Forms of these returns are given in Appendices L and M.. The quarterly return is to be submitted through the Commissioner, the annual return to the Board direct.

Return No. XVIII.—All cases of lands taken up for embankment purposes under Act VI (B.C.) of 1873 should be shown in Part II of the return. No case should be struck out of the return till the proceedings have been reported to, and approved by, the Board.

Section II.—Special Instructions to be observed when Land is required for a Railway, Road, Canal, &c.

Plans.

1. The officer entrusted with the preliminary inquiry shall prepare plans of the land required. The rule laid down in clause 15, Section I, regarding the description of paper on which the plans should be prepared, and the submission of an anthenticated copy to the Board of Revenue, will also apply here.

Their contents.

2. These plans should be prepared upon the scale of 330 feet to the inch, and the boundaries of each different village should be distinctly shown in a different colour. Each plan should consist of the length of one mile, and be numbered consecutively, and the area of the land to which each plan refers should be noted in acres, roods, and poles, and in standard beeghas of 14,400 square feet, on the face of the plan as well as in an accompanying reference sheet or schedule. Where lands situated in different villages are covered by the plan, the area of the portion included in each village is to be shown separately in the plan and schedule. Each plan and schedule shall also bear a note of the purposes for which the land is required. If the land is being taken for a railway, each separate class of land (A, B, C, or D,—*see* Section III) must be coloured differently.

Separate plans for portions of miles.

3. The boundary of a district will, of course, seldom or never coincide with the termination of a mile. Unless it does so, a separate plan should be prepared for each of the broken parts of the mile on either side of the boundary, so as to keep the records of each district separate.

Their submission.

4. As soon as the plans of each mile, or portions of miles, are completed, they should be submitted by the surveyor to the Collector or officer appointed to take up the land, *i.e.* some officer vested with the powers of Collector under section 3 of the Act.

Estimates and declarations.

5. The instructions laid down in clauses 7 to 19, Section I, for the framing and submission of estimates, and for the issue of declarations, will apply.

Demarcation of land.

6. After issue of the declaration, the Collector, or officer appointed to take up the land, will call on the officer who conducted the preliminary investigation, or some other officer to be appointed on the Collector's requisition by the Department or Company on account of which the land is to be occupied, to mark out the boundaries of the land. These marks, whether pegs or trench, must be in exact accordance with the plans or instructions, and the termination of each mile must be clearly defined by side pegs and a cross nicking. The numbers (reckoned consecutively from the starting point of the line) of the miles of which they severally mark the termination and commencement should be painted on the front and back of each peg respectively. The officer entrusted with the execution or supervision of this work should himself mark the spots where the line passes out of one district into another.

Appointment of ameens.

7. The officer appointed to take up the land will then appoint an ameen or surveyor to make the measurements necessary for fixing the value of the land and for preparing schedules.

Mile plans.

8. The ameen's maps should correspond each for each with those of the professional officer, and should represent each one a mile, according to the marks on the ground, where the termination of each mile is represented by a cross nicking. The maps must show the different holdings and the boundaries of each village differently coloured, and should be upon the scale of 75 feet to the inch. Each plot or dâg of the ameen's measurement is to be numbered consecutively from the beginning of each mile, and the area of each plot (in standard beeghas of 14,400 square feet) and the name of the proprietor are to be noted on the plot on the face of the plan. If the land is being taken for a Railway or for a Company, there must be a separate series of numbers of each separate class of land (A, B, C, or D).

Schedule.

9. From each separate plan is to be prepared a separate schedule in the form given in Appendix H.

10. The boundary of a district will, as already remarked, seldom or never coincide with the termination of a mile. Unless it does so, a separate plan and schedule must be prepared for each of the broken parts of a mile on either side the boundary, so as to keep the records of each district separate.

Separate plans for portions of a mile.

11. Again, it is very improbable that the termination of a mile will coincide precisely with the boundary of a holding. Unless it does so, the holding must be broken up into the portions lying on either side of the termination of a mile, and planned and entered in the schedule accordingly.

Separate plans for portions of a mile.

12. As soon as the plan and schedule of each mile, or portion of a mile, are completed, they should be submitted by the ameen to the officer appointed to take up the land, who will immediately test the correctness of the ameen's work in every particular, making any alterations that he may think necessary in red ink, and returning the rough copy to the ameen to be copied fair, as finally approved. The officer will, at the same time, *himself* appraise the quality of the land, and the value of the houses, trees, or crops upon it.

Testing of ameen's work.

13. The ameen will prepare the usual abstract or *khatian* of his survey and measurements as directed in clause 15, Section I.

Khatian.

14. The officer appointed to take up the land will then issue the notices prescribed by section 9 of the Act, and prepare a register in the form given in Appendix I, in which he will enter the particulars of each case separately. It is desirable, as far as possible, to treat as one case all the land *in one plan* for which compensation is to be paid to one person or set of persons.* The cases should be entered in separate groups, according to the nature of the tenures, as "revenue-free," "revenue-paying," &c.

Village register.

15. There is to be a separate register for each separate mile, or portion of a mile, to correspond with the separate plan and schedule of the ameen or surveyor. The register cannot be completed entirely

Mile register.

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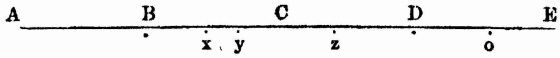
* *Vide* clause 30, Section I, which provides that "the reference to be made by the "Collector to the Court under section 15 or 43 shall in no one case cover more land "than is included in any one of the mile plans prepared by the surveyor." The course to be adopted will be better understood from the following illustration :—

Let AB, BC, CD, DE be mile sections of a strip of land required for a road; let Ax, xy, yz, and zE represent the portions of the strip which are severally included in distinct estates, and let o mark the intersection of the strip and the district boundary.



Then the compensation for the lands comprised in AB, Bx, xy, yC, Cz, zD, Do, oE, respectively, must be determined in separate and distinct cases, whether the award be made by the Collector or the case be referred to the Court for adjudication. And in this illustration the cases comprising the lands from A to o and o to E severally will, of course, be disposed of by the authorities of the districts in which the areas in question are respectively included.

until the proceedings are finally closed, but the officer should at once test the correctness of the areas entered in it by comparing the total area which it shows (which must, of course, be *identical* with that shown in the corresponding plan and schedule of the ameen or surveyor) with the gross area of the whole mile as shown in the original plan (*see* clause 2 above). If the result be a difference of more than 2½ per cent., the cause must be investigated and (if correction is impossible) recorded. But correction must always be made where practicable, for a difference of area is a proof that one of the two plans is incorrect.

General register.

16. As soon as the register and records of each mile are as complete as the officer can make them, they are to be forwarded to the Collector of the district, who will, when he has received all the records of the portion of the line which passes through his district, prepare an abstract in the form given in Appendix K.

Papers to be bound up.

17. The abstract should be bound up with the registers and the schedules and plans, and with the receipts given for compensation paid, and should be deposited in the record-room with proper label upon it.

Railway rules.

18. In Section III will be found the rules of the Governments of India and Bengal in regard to the classification, &c., of lands taken up for railways.

Rent of C lands.

19. The annual rent on lands in class C, occupied by a guaranteed Railway Company, shall be fixed at 5 per cent. on the outlay incurred by Government in taking up the land, *plus* any revenue or rent payable to Government in respect of the said land.

Rate of rent.

20. In the case of land already belonging to, and in the occupation of, Government, the rent shall be fixed at 5 per cent. on the value of the land as estimated by the Collector.

Compensation for deterioration of C lands.

21. In the event of the land being required for purposes through which its letting value will be diminished, the Railway Company, on relinquishing it, shall pay, in addition to any rent paid during the occupation of the land under the previous instructions, the estimated difference between the actual value of the land when relinquished and the value that the land would have had if the rent remained at the amount that was paid during the occupancy of the Company.

When rent is not to be charged.

22. When land, presented in free gift by private individuals for the purpose of a railway, is made over to a guaranteed Railway Company in class C, no rent shall be charged by Government for the land.

Adjustment of compensation for deterioration.

23. Under clause 21 above, the real value of the land to the Government, before it was handed over to the Company, would be properly estimated on the basis of the rent charged for it. But when land has been actually paid for by the Company already, no re-opening of

the old transactions should take place, and the adjustment can be made when any land is given up.

Compensation for surrender of lease, &c.

24. Compensation paid for surrender of a lease or any other charge should be considered in fixing the rent. If the land is not in the occupation of the Government, and therefore cannot be transferred to the Company without charge of some sort, it comes under clause 19 above.

SECTION III.—RULES FOR TAKING UP LAND FOR RAILWAY PURPOSES (BY THE GOVERNMENT OF INDIA) ISSUED 29TH JUNE 1861. [SEE SECTION II, CLAUSE 18.]

1. Land required for railway purposes may be divided into four classes,—A, B, C, and D. *First*, class A, land which a Railway Company receives free of charge, under the contract with the Government, for permanent occupation. *Second*, class B, land also provided free of cost, but only for temporary occupation. *Third*, class C, land which the Railway Company has to provide at its own cost. *Fourth*, class D, land which does not come directly into the possession of the Railway Company at all.

2. Class A will comprise the land required for the permanent works of a railway, including the road with its bridges, &c., and all stations, workshops, permanent store-houses, and the like, necessary for the line when opened, and which under the contracts is to be provided by Government free of cost to the Railway Companies. The occupation of this land by a Railway Company will be so far permanent that it will only cease when their contract is terminated or surrendered, and the whole lapses to Government. It is all provided free of charge.

3. Class B will contain land essential for the execution of the permanent works of a railway, but not required after the completion of the line in part or in whole. It also is provided free of charge. Such as land for spoil banks, for extra excavation to make banks, for river diversion, and for the storage of railway materials held in stock by the Railway Company pending the construction of the line or their despatch to the works.* The occupation of this class of land will be temporary. On the restoration to the Government, the proper time for which will be settled in each case between the Railway officers and the Consulting Engineer, it will be for the Revenue officers to dispose of it to the best advantage of Government.

4. Class C will contain the land which a Railway Company has to provide at its own cost. This is the land which is required for the provision or preparation of materials, for purposes contingent on the actual execution for the works on the line, or for other miscellaneous objects, which the Government recognizes as falling legitimately within the scope of the Railway Company's

* The last sort of land is allowed free under the Right Hon'ble the Secretary of State's letter No. 25, of 30th November 1858.

operations, though not giving the Company a claim to the provision of land free of charge. As a Railway Company is bound to pay for the construction of all works out of the capital, receiving only from Government, without charge, the land on which the works stand, the provision of all materials, and the means of facilitating the execution of all works, are to be at the cost of the Railway Company.* It is proper to bear in mind, in fixing the rent, that this land will in part deteriorate by the use to which it is put, and in part will not so deteriorate. In all cases, however, it will be most convenient to deal with the land, in the first instance, in the same manner. It will be taken possession of by Government, and handed over to the Railway Company for occupation at a fair rental. When the necessity for occupation ceases, the land will be given up again to Government by the Railway Company, the proper time for this being determined, as under class B, by the Railway officers and Consulting Engineer.

5. Class D will contain that land which, being required in consequence of the works of a railway, still does not come directly into the occupation of the Railway Company; it will be provided free of charge. It will be exclusively land for roads—either new roads leading to railway stations, or to permanent store-yards or work-shops detached from the main works, diversions, or changes of old roads made necessary by railway works.

6. Inconvenience is likely to arise if Railway Companies are permitted to hold land on their own account, or otherwise than is above explained. By causing them to rent from the Government all land to which they are not entitled free, in the manner above explained, simplicity in the tenure of their property will be secured, which will be a matter of importance at a future time when the railway may be transferred to Government. The determination of the value to be paid by the Government for any land not included in class A which might be held by a Railway Company would certainly be in such an event a great embarrassment.

7. Houses, trees, tanks, or other property on land which is not provided free of charge, and for which special payment or

---

* The following words were also in the original rules:—

"In this class, therefore, will fall all land for brick-making, for quarrying ballast (*a*) for houses, for persons employed on the work, &c.; so also land for houses for engine-drivers and the like on the line when opened, and for other similar purposes, will come under class C."

But H. M.'s Secretary of State for India thought that any particularization in the rule might raise questions as to the power of Government to alter or vary the terms of the contract—(a power which the Government has no intention of claiming). It has therefore been thought best to give these words in a note, simply for the guidance of the officers of Government and parties interested, as to the construction which Government puts on the contract in regard to certain points of frequent practical application.

(*a*) In the original rules, the words "for roads to works in progress" here found place. They have now been struck out as calculated to mislead. It is clear a road may be required from a site used temporarily for storage of materials itself in class B. This would carry the road itself into the same class. A road from a brick-field or quarry would be in the same category as the brick-field or quarry, viz. class C; whereas a road from a detached but permanent store-yard, although leading "to works in progress," would not the less come under class D, should such road still be necessary after the completion of those particular works. Thus, *generally*, the circumstances of the tenure of land *at the end of the road furthest from the railway* will decide the class into which the road itself shall be placed.

compensation is necessary, will be paid for at once by the Railway Company. In the case of land provided free of charge, the materials, &c., derived from the "clearance" of the surface, which then will be at the expense of Government, will be disposed of by the Revenue officers to the best advantage.

8. All land required for a line of railway will be applied for in continuous portions; the plans will be drawn to a scale of 150 feet to the inch, and the measurements and areas will be recorded in accordance with the fiscal divisions of villages, estates or mouzahs, pergunnahs and zillahs, in a schedule, of which a form is annexed, showing in detail the several classes to which the land belongs.

9. The several classes of land will be coloured pink, yellow, purple, and green respectively in the plans, and the exact purpose to which each parcel of land is to be devoted will be noticed in the schedule.

10. Detached portions of land should be referred to some fixed point on one of the main sheets, with such distances and compass or other bearing as will enable the land to be identified at once. A corresponding entry should also be made on the main sheet to draw attention to the detached portion.

11. The general correctness of the plans and schedules of the Railway Engineers being attested by the Consulting Engineer to Government, the applications will be forwarded to, and dealt with, as may be necessary, by the Revenue authorities under the orders of the local Government. The Revenue officers are to be held strictly responsible for the regular adjustment, by Railway Companies, of all charges on account of land to be determined in the manner above explained.

12. A complete set of land plans should be recorded in the Chief Engineer's Office of each railway, and a copy forwarded to the Consulting Engineer to Government, by whom a duplicate will be given to the Revenue Board, which, in turn, will supply Collectors of districts with transcripts of parts included in their respective zillahs. When it may be found expedient, in order to expedite the making over of the land, to employ a special Land Commissioner for this duty, the Railway Engineers should supply an additional copy of the land plan for the use of the Land Commissioner.

13. The Consulting Engineer to Government and local Revenue authorities will, respectively, be held responsible for the punctual fulfilment of the foregoing orders in the several departments, and for the careful record of plans in their respective offices.

14. All contemplated changes in the land in possession of a Railway Company should be promptly reported by the Railway Agent to the Consulting Engineer to Government, who will notify the same to the local Government. It will be for the latter to see that the necessary steps are taken by the Revenue authorities for entering such changes in their records, and for carrying out all further proceedings that are requisite on such an occurrence.

15. It will be necessary for the local Government to see that a correct register and record of title of all railway lands is maintained; for the whole of such lands will one day revert to the Crown. Also, that all rents or payments for clearances, &c., chargeable on behalf of Government against the Railway Company are duly realized.

16. It is essential that there should be for each railway *one* set of plans, in a regular sequence, to show all the land, and that the plans of each Railway Company's estate, after they have once been prepared, should constantly be corrected and always be maintained complete.

FORM OF SCHEDULE.

Plan. Sheet No.—
Railway—
District—

Schedule of land required for the use of the Railway in

Village—
Pergunnah—
District—

Number on plan.	Purpose for which required.	Payable by Government.			Payable by Railway Company.
		A. (*Pink.*) Land for permanent occupation by Railway Company.	B. (*Yellow.*) Land for temporary occupation by Railway Company.	D. (*Green.*) Land to be occupied by Government permanently.	C. (*Purple.*) Land for occupation by Railway Company permanently or temporarily.

Consulting Engineer to Govt. *Chief Engineer—Railway.*

APPENDIX A.

[SEE SECTION I, CLAUSE 3.]

Form of Notification under Section 4, Act X of 1870.

WHEREAS it appears to the Lieutenant-Governor of Bengal that land is likely to be required to be taken by Government at the public expense for a public purpose, viz. for , in the village of , pergunnah , zillah , it is hereby declared that for the above purpose a piece of land measuring, more or less, beeghas cottahs chittacks of standard measurement, bounded on the [*here specify the boundaries*], is likely to be required within the aforesaid village of .

This declaration is made, under the provisions of section 4 of Act X of 1870, to all whom it may concern.

Collector.

Dated 187

APPENDIX B.

[SEE SECTION I, CLAUSES 9 TO 11.]

Form of Declaration under Section 6, Act X of 1870.

WHEREAS it appears to the Lieutenant-Governor of Bengal that land is required to be taken by Government at the public expense for a public purpose, viz. for , in the village of , pergunnah , zillah , it is hereby declared that for the above purpose a piece of land measuring, more or less, beeghas cottahs chittacks of standard measurement, bounded on the [*here specify the boundaries*], is required within the aforesaid village of .

This declaration is made, under the provisions of section 6 of Act X of 1870, to all whom it may concern.

Collector.

Dated 187

APPENDIX C.

[SEE SECTION I, CLAUSE 20.]

Form of General Notice to be published under paragraphs 1 and 2, Section 9, Act X of 1870, for land to be taken up.

NOTICE is hereby given that beeghas cottahs chittacks, more or less, of land situate in or near the village of , bounded as below, and recently marked out and measured, is about to be taken by Government for a [*here specify the purpose*], under Act X of 1870, in accordance with a declaration, No. , dated , published in the Government Gazette of the . All persons interested in this land are hereby called upon to appear personally or by agent on the [*enter a date not less than fifteen days from the date of the publication of the notice*] at the Office of , at , to state the nature of

their interest in the land, and the amount and particulars of their claims to compensation for the same.

Boundaries.

North—	East—
South—	West—

Dated 187 *Collector.*

Appendix D.

[See Section I, Clause 20.]

Form of Special Notice to be issued under paragraphs 3 and 4, section 9, Act X of 1870, to occupiers of the land to be taken up, and other persons known or believed to be interested in it, or to be entitled to act for persons so interested.

Notice is hereby given that beeghas cottahs chittacks, more or less, of land situate in or near the village of bounded as below, and recently marked out and measured, is about to be taken by Government for a [*here specify the purpose*], under Act X of 1870, in accordance with a declaration, No. , dated , published in the Government Gazette of the . If you have any interest in this land, or are entitled to act for persons so interested, you are hereby called upon to appear personally or by agent on the [*enter a date not less than fifteen days from the date of the publication of the notice*] at the Office of , at , to state the nature of such interest in the land, and the amount and particulars of any claim you may wish to prefer for the same.

Boundaries.

North—	East—
South—	West—

Collector.

Dated 187

Appendix E.

[See Section I, Clause 20.]

Form of Requisition under Section 10, Act X of 1870, to be added when necessary to Notice in Appendix D.

You are hereby required to furnish the undersigned with a statement containing, so far as may be practicable, the name of every person possessing any interest in the land, or any part thereof, referred to in the notice of served on you, as co-proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Collector.

Dated 187

APPENDIX F.

[SEE SECTION I, CLAUSE 53.]

Satement shewing compensation awarded by , under Section , Act X of 1870, *to all the persons interested in the plot of land described below, situated in the village of in estate , No. on the revenue roll of the district of , pergunnah , and also all other charges incurred in the acquisition of the land. The said plot is bounded as shewn in the plan hereunto annexed, which has been prepared under Section , Act X of* 1870, *and measures acres roods poles chains .*

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
Serial number.	Serial number of each separate claim or case in the Final Report.	Names of persons in whose favour the award has been made.	Connection with the land.	Area of the parent estate, if known, of which the land acquired forms a portion.	Area of the land acquired.	Amount of Government revenue deemed payable in respect of the land as recorded by the Collector under rule III or IV* of the Government rules.	Amount of capitalised value of revenue payable under rule VI of the Government rules at years' purchase.†	Date from which abatement of revenue, if any, takes place.	Market value determined by the Collector with reference to section 13 and clause 1 of section 24 of the Act.	Damages and expenses assessed by the Collector with reference to section 13 and clauses 2, 3, and 4 of section 24 of the Act.	Total award (column 10 *plus* column 11).	Additional compensation awarded under section 42 of the Act calculated at 15 per cent on the market value shewn in column 10.	Total of columns 12 and 13.	Amount of interest and period for which awarded under section 42 of the Act calculated at 6 per cent. on the amount shewn in column 14.	Other expenses as explained in the column of Remarks.	Costs decreed to Government.	Costs decreed against Government.	Total of columns 14, 15, and 16, *minus* column 17, or *plus* column 18.	Total amount disbursed (column 8 *plus* column 19).	Difference between the amount as per columns 8 and 14 and the amount of estimate sanctioned by Govt. under clause 14, Section I.	Explanation of such difference when exceeding 15 per cent.	REMARKS.
				A. R. P.	A. R. P.	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.		

N.B.—In cases in which the award has been made under section 14 of the Act, the Collector, as required by clause 33, Section I, should sign one or other of the following certificates, which may be applicable:—

"Certified that the prices awarded are not in excess of those for which similar lands are actually sold in the neighbourhood."

Collector.

[*or*]

"Certified that the prices awarded are not in excess of those for which similar lands in the neighbourhood might be reasonably expected to command."

Dated 187 . *Collector.*

* The amount in column 7 should be shewn separately for each estate.

† This need only be given when the capitalized value of the Government revenue chargeable on the land is paid to the proprietor under rule VI of the Government rules.

APPENDIX G.

[SEE SECTION I, CLAUSES 55 to 59.]

No. OF 187

Bill for expenditure incurred by the Collector of for land taken for under Act X of 1870, *as per Declaration No. of* 187 *, published at page of the Government Gazette of* 187 *, and as per Government order No. , dated* 187 .

	Rs.	A.	P.
Amount of estimate sanctioned as per Government order No. dated 187			
* Amount of bills already passed on this account			
To expenditure incurred in taking up the land, &c., referred to in the undermentioned Abstract			
Total ...			

* This need only be inserted when monthly bills are submitted.

Collector.

Abstract.

For what purpose.	Village, zillah, or locality.	Total area of land taken up.	Nature of charges.	Total value of the property taken.			REMARKS.
		A. R. P.		Rs.	A.	P.	
			Capitalized value of abatement of Government revenue, if any, payable under rule VI of the Government rules, as per column 8 of Appendix F ...				
			Amount of compensation, as per columns 14 and 15 of Appendix F				
			Other expenses incurred in taking up the land, as per column 16 of Appendix F				
			Costs decreed against Government, as per column 18 of Appendix F				
			Total ...				

Dated 187 *Collector.*

APPENDIX H.

[SEE SECTION II, CLAUSE 9.]

Schedule of lands in the *mile of the road from* *to* *District of*

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
								MEASUREMENT OF EACH PLOT.			DESCRIPTION OF TREES.				DESCRIPTION OF PARTICULARS OF HOUSES, &C.				
Number of plot.	Name of village.	Number of estate on the district roll, and its name.	Name of proprietor.	Name of intermediate tenant, with description of his rights.	Name of lessee or ryot, with description of his rights.	Names of cultivators, and owners of houses, trees, or crops.	Description and quantity of land.	South to North.	East to West.	Area in standard beeghas.	Kind.	Number.	Age.	Weight.	Description.	Length.	Breadth.	Height.	Description of standing crop.

NOTE.—When the land is taken for a railway, a separate schedule in this form is to be prepared for each class of land—A, B, C, or D.

Dated *Collector.*

APPENDIX I.

[SEE SECTION II, CLAUSE 14.]

1	2	3	4	5	6	7			8	9	10			11			12	13			14			15			16			17			18			19			20			21
Number of case.	Name of village.	Names of persons in whose favour the award has been made.	Connection with the land.	Number of each plot in the ameen's or surveyor's plan, as per clause 8, Section II.	Description of land.	Area in standard beeghas.			Houses, trees, crops, tanks, &c.	Name of estate and number on the rent-roll.	* Amount of Government revenue deemed payable in respect of the land as recorded by the Collector under rule III or IV of the Government rules.			† Amount of capitalized value of revenue payable under rule VI of the Government rules at years' purchase.			Date from which abatement of revenue, if any, takes place.	Market value determined by the Collector with reference to section 13 and clause 1 of section 24 of the Act.			Damages and expenses assessed by the Collector with reference to section 18 and clauses 2, 3, and 4 of section 24 of the Act.			Total award (column 13 *plus* column 14).			Additional compensation awarded under section 42 of the Act calculated at 15 per cent. on the market value shewn in column 13.			Total of columns 15 and 16.			Amount of interest and period for which awarded under section 42 of the Act calculated at 6 per cent. on the amount shown in column 17.			Total amount disbursed (column 11 *plus* columns 17 and 18).			‡ Sale proceeds of property.			§ Abstract of proceedings of officer who has taken up the land.
						B.	C.	C.			Rs.	A.	P.	Rs.	A.	P.		Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	

* The amount in column 10 should be shewn separately for each estate.
† This need only be given when the capitalized value of the Government revenue chargeable on the land is paid to the proprietor under Rule VI of the Government rules.
‡ This column should show proceeds of property sold on behalf of Government, such as trees or crops, for which compensation is awarded.
§ This should be very short, and should end with reference to Judge's Court when reference has been made.

Dated 187 *Collector.*

APPENDIX K.

[SEE SECTION II, CLAUSE 16.]

General Abstract Register of lands taken up in the District of for the road from to during the year 18 *to*

1	2	3	4	5			6			7			8	9			10
Number of miles.	Names of estates and villages in alphabetical order.	Amount of land taken in each estate.	Area shown by the register of each mile.	Compensation fixed for land in each estate, including additional compensation and interest under section 42.			Compensation paid for land in each estate.			Abatement of revenue allowed in each estate.			Names of persons who received compensation.	Amount of compensation in deposit.			REMARKS.
				Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.		Rs.	A.	P.	

Dated 187 *Collector.*

APPENDIX L.

[SEE SECTION I, CLAUSE 63.]

Return No. XVIII.—Progress made in taking up lands for public purposes under Act X of 1870 *in the District of* *for the quarter ending* 187

1	2	3	4	5
Serial Number.	Purpose for which land is required.	Number and date of the declaration under section 6 of the Act, and the page and date of the Gazette in which it has been published.	Date of receipt in the Collector's Office of the orders of Government under section 7 of the Act, authorising acquisition of the land.	Abstract of progress within the quarter, and explanation of cause of delay.
		PART I.		
		PART II.		

Dated 187

Collector.

APPENDIX M.

[SEE SECTION I, CLAUSE 63.]

Return No. XXIV.—Estimate of compensation payable in the year 187 -7 *for lands to be taken up for public purposes in the District of*

1	2	3	4
Department and purpose for which land is required.	Amount of probable cost of land for each work [no fraction of a rupee].	Amount payable in the year 187 -7 .	REMARKS.
REVENUE.	Rupees.	Rupees.	
Land Revenue			
Excise			
Customs			
Salt			
Opium...			
MILITARY.			
Public Works not chargeable to Local Funds'			
Civil			
* Roads, Canals, Embankments, &c....			
Travellers' Bungalows			
Railways			
PUBLIC BUILDINGS OTHER THAN REVENUE, VIZ.—			
Civil Courts, including Small Cause Courts			
Criminal ditto			
Jails			
Police			
Education			
Ecclesiastical			
Other Buildings			
LOCAL FUNDS.			
All land required by Government, the cost of which is chargeable to Local Funds			

* The amount of estimate under each of these heads should be separately entered in the column of remarks.

Dated *Collector.*

APPENDIX N.

[SEE SECTION I, CLAUSE 47.]

Table for calculating the 15 *per cent. additional compensation under section* 42 *of Act X of* 1870.

Rs.	A.	P.		Rs.	A.	P.	Fractions.
.....	...	1		.....	...	...	1/20
.....	...	2		.....	...	...	2/20
.....	...	3		.....	...	...	3/20
.....	...	4		.....	...	...	14/20
.....	...	5		.....	...	...	15/20
.....	...	6		.....	...	...	16/20
.....	...	7		.....	...	1	1/20
.....	...	8		.....	...	1	4/20
.....	...	9		.....	...	1	7/20
.....	...	10		.....	...	1	10/20
.....	...	11		.....	...	1	13/20
.....	1	...		.....	...	1	16/20
.....	2	...		.....	...	3	17/20
.....	3	...		.....	...	5	5/20
.....	4	...		.....	...	7	*
.....	5	...		.....	...	9	.....
.....	6	...		.....	...	10	18/20
.....	7	...		.....	1	..	13/20
.....	8	...		.....	1	2	5/20
.....	9	...		.....	1	4	8/20
.....	10	...		.....	1	6	.....
.....	11	...		.....	1	7	16/20
.....	12	...		.....	1	9	12/20
.....	13	...		.....	1	11	5/20
.....	14	...		.....	2	1	3/20
.....	15	...		.....	2	3	.....
1	...	...		.....	2	4	18/20
2	...	...		.....	4	9	12/20
3	..	...		.....	7	2	5/20
4	...	...		.....	9	7	4/20
5	...	...		.....	12	...	.....
6	...	...		.....	14	4	12/20
7	...	...		1	0	9	16/20
8	...	...		1	3	2	8/20
9	...	...		1	5	7	20/20
10	...	...		1	8	...	...
11	...	...		1	10	4	18/20
12	...	...		1	12	9	12/20
13	...	...		1	15	2	5/20
14	...	...		2	1	7	8/20
15	...	...		2	4	...	.....
16	...	...		2	6	4	16/20
17	...	...		2	8	9	12/20
18	...	...		2	11	2	5/20
19	...	...		2	13	7	4/20
20	...	...		3	...	...	.....
30	...	...		4	8	...	.....
40	...	...		6	...	...	.....
50	...	..		7	8	...	.....
60	...	...		9	...	...	.....
70	...	...		10	8	...	.....
80	...	...		12	.	...	.....
90	...	...		13	8	...	.....
100	...	..		15	...	...	.....

APPENDIX O.

[SEE SECTION I, CLAUSE 15.]

Alphabetical Index to the Volume of Maps of lands taken up for public purposes under Act X of 1870 *in the District of*

1	2	3	4	5	6	7	8
Purpose for which land was taken.	Name of mouzah or village in which land is situated.	Name of pergunnah in which mouzah or village is situated.	Number and date of declaration.	Page and date of Gazette in which declaration was published.	No. and date of Commissioner's letter with which the map was submitted.	No. and date of Board's order which approved of the proceedings.	Page of volume in which the map is to be found.

Appendix P.

State Railways.

Rules regarding the acquisition of land to be observed by Engineers.

I.—The general course of procedure laid down in the Public Works Code, Chapter xiii, 1, 14, is to be followed on the State Railways. Paragraph 14A is to be attended to in all cases when it is applicable.

II.—Railway officers shall not obtain possession of land whether by purchase, lease, or on simple toleration, except through the Revenue authorities.

III.—Engineers, in preparing land plans for submission, will divide their application under two heads, viz.—

(*a*)—Land required permanently, or land necessary for the railway when it is opened for public traffic, and when the works of construction are finished.

Such lands are the sites of bridges, embankments, cuttings, fences, and other works; the cess or berm introduced for the sake of safety between the limits of the works and the adjacent spoil bank, bazar, or side-cutting; roads permanently required and immediately in the neighbourhood of stations, over-bridges, under-bridges, or level-crossings on the railway; land or water required for the water-supply; land wanted for the preparation and reception of such materials as are used in maintenance, as ballast pits; land for the lasting diversion of water-courses, and all space permanently required at the stations, whether for traffic, storage, workshops, dwellings, or recreation.

(*b*)—Land required temporarily, or land necessary to be taken up, but not permanently wanted.

Such land will be for roads for access to works while in progress, but which will subsequently be abandoned; land for side-cutting and spoil-banks occupied during construction for the preparation and reception of materials used in constructing the railway, as brick-fields, quarries, or ballast pits; the temporary diversion of streams and highways. The sites of overseers' dwellings to be occupied only during construction will come in this class.

IV.—The land to be taken up permanently for the through line of railway will be, in the first instance, sufficient for a double line, so as to allow of a cart-road to exist parallel to the railway outside the fence so long as the line remains single. This road will be useful not only during construction for service purposes, but afterwards for access to the stations, and for maintenance purposes. Station sites and temporary land to be taken for a single line with sidings only.

V.—For the purposes of preparing land plans, the seat of the embankments of railways on the narrow gauge may be considered to be 22 feet wide, as for a double line, added (on the supposition that slopes of 2 to 1 will suffice) to four times the height of the embankments. When flatter slopes are required in exceptional cases, extra allowance must be made for them. A width of 19 feet will be taken up on each side of the embankment, of which three feet will be reserved as a cess on each side of the bank between the toe of the slope and the edge of the seat of the fence mound, and the remainder for a ditch and mound fence. Without any allowance for slopes of embankments, the least breadth of land required for the permanent works would thus be 60 feet, and the minimum breadth to be taken up permanently for the railway in embankment will be 64 feet.

Similarly, in cuttings, a width at formation level of 30 feet will be taken as for a double line; fence, cess, and slopes may, as a general rule, be calculated as for embankments. The least breadth actually necessary will thus be 68 feet, and the minimum breadth to be taken up permanently for cuttings will be 72 feet. In sidelong ground the side widths will be duly provided for.

The centre line of a single track narrow gauge railway having been laid out, the width of land to be taken up when the formation is in bank, with slopes of 2 to 1, will be 25 feet *plus* twice the height of the bank on one side, and 35 feet *plus* twice the height of the bank on the other side of the centre line; but in no case will a less width than 27 feet on one side and 37 feet on the other side be taken up. Similarly, in cutting, the minimum width to be taken up on each side of the centre line will be 31 feet and 41 feet respectively.

VI.—Land to be taken up temporarily will be principally for side-cuttings and spoil-banks, and will generally adjoin the land required permanently.

Embankments under three feet in height will have side-cutting on one side of the railway only. Slopes of side-cutting will be generally 2 to 1 all round, but care must be taken to provide for exceptional cases when a flatter slope may be needed. Similarly, the contents of cuttings under three feet high will be led to spoil on one side only.

Land for side-cuttings will be taken on the calculation that they will not exceed ten feet in depth. They will be formed into well-defined tanks. In every 300 feet along the railway, 60 feet, with a slope of 2 to 1, will remain untouched, so as to prevent the tanks becoming continuous. The tanks will thus be 240 feet long, and the 60 feet spaces will be used for storage of ballast or other purposes, provided they remain uncut. A sufficient water-course will be provided at right angles to the centre line of railway for each culvert or bridge, and on either side of this water-course land will be left clear of the side-cuttings sufficient to prevent the water from the river running into the said cuttings. The precaution of leaving land uncut in this manner is necessary to prevent the formation of a dangerous stream parallel to the railway.

VII.—In the neighbourhood of towns or other places, where land is above the ordinary value, the width of land to be taken for slopes, fence, &c., must be specially considered to secure economy.

VIII.—All land will be applied for in continuous portions, when practicable, mile by mile, or village by village on each sheet; the plans will be drawn to the scale of 300* feet = 1 inch: the centre line of railway will be shown divided into chains, each 100 feet in length, and all dimensions will be figured in feet. The name of each zillah, pergunnah, and mouzah will be shown on each sheet. On curves the tangential point on the centre line will be marked and the radius of curvature given. The areas in acres, roods, and poles will be recorded in accordance with the fiscal divisions in a schedule (form annexed) showing in detail the class to which the land belongs, and the purpose to which it is to be devoted. Land required permanently will be coloured pink; temporary land will be coloured yellow.

IX.—Detached portions of land should be referred to some fixed point on one of the main sheets, with distances and compass or other bearings, or such reference to the published maps of the neighbourhood as will ensure a ready identification of the land: and corresponding entry should be made on the main sheet to draw attention to the detached plot.

X.—As a general rule, three complete sets of land plans and schedules will suffice for records, viz.—

One for the Engineer in charge of the railway.
One for the local Government or Administration.
One for the Revenue authorities; but should more be required, they will be supplied by the Railway Engineers.

XI.—The general correctness of the plans and schedules submitted by the Railway Engineer in charge, being attested by the Consulting Engineer or other controlling officer of the Government, the application will be forwarded to the Revenue authorities, and will be dealt with by them under the orders of the local Government.

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* Plans already proposed on the scale of 150 feet = 1 inch will be received, but the smaller scale should be adopted in future: or in anticipation of the general adoption of decimal scales in the State Railway Department a scale of $\frac{1}{4000}$ may be used.

XII.—The land plans and schedules will be rectified from time to time as changes occur, and it will be necessary for local Governments to see that a correct register of all railway lands is maintained.

XIII.—When land is no longer required for the railway, it will be re-transferred to the Revenue authorities and disposed of by them. It will be the duty of the Consulting Engineer or other controlling officer of Government, in conjunction with the Engineer in charge of the railway and the Revenue authorities, to periodically adjust the boundaries, the controlling officer being held specially responsible for any excess of land held for railway purposes. All contemplated changes in the land occupied by a railway should be reported to the Consulting Engineer or other controlling officer, who will notify the same to the local Government, and it will be for the latter to see that the necessary steps are taken by the Revenue authorities for entering such changes in their records, and for carrying out all further requisite proceedings.

XIV.—In Native States, all land will be obtained through the Political Agent, and the distinction of temporary and permanent need not be observed; but this will not make it the less incumbent on the officials concerned to see that all land not permanently required for the purposes of the railway is restored when no longer wanted, and to keep as complete records of the land retained for railway purposes in Native States as in British territory. Such plans and schedules as the Political Agent may require will be supplied by the Railway Engineers.

XV.—The narrow gauge having been made one metre, and the introduction (as soon as the means are available) into the State Railway Department of the metrical system having been decided upon, the dimensions given in this circular will hereafter be converted to the new standard, with such slight modifications as may be found convenient.

STATE RAILWAY.

PLAN NO._____

DISTRICT_____

*Schedule of land taken for the use of the Railway in Zillah*_____

*Pergunnah*_____

*Mouzah*_____

NUMBER OF PLAN.	Purpose for which required.	CLASS A. COLOURED PINK.			CLASS B. COLOURED YELLOW.		
		Occupation, permanent.			Occupation, temporary.		
		Land for the regular works of the Railway, including land for high roads and rivers, &c., &c.			Land for excavations, spoil, and for contingencies of construction, for dwelling-houses, &c., &c.		
		Acres.	R.	P.	Acres.	R.	P.
	Total						

Superintending Engineer. *Deputy Consulting Engineer to Government.*

Regr. No. 11041—300—25-7-77.

APPENDIX Q.

[SEE SECTION I, CLAUSE 40A.]

Amount of compensation due to *for land taken up for public purposes under Act X of* 1870.

DR. CR.

REPAYMENT.							RECEIPTS.						
Number of voucher in Deposit Repayment Register.	Date.	Particulars.	Government securities.	Cash	Initial of Collector.	Remarks.	Number in Deposit Receipt Register.	Date.	Particulars.	Government securities.	Cash.	Initial of Collector.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13	14
	1877.			Rs. A. P.				1877.			Rs. A. P.		
125	June 3rd ...	Remitted to Bank for investment, *vide* Bank's account furnished on 12th June 1877.	.....	97 8 0			1	April 1st ...	*Vide* page 1 of this Register.	.....	135 11 3		
								" " .	Government paper purchased as per details on the debit side.	100			
	1878.						250	September 1st	59th half-year interest	.....	2 0 0		
	July 1st ...	Paper sold out, as per Bank's account dated 30th June 1878.	100	.....				1878.					
							560	March 1st ...	60th ditto ditto ...	.....	2 0 0		
							157	July 1st ...	Recredited to Deposit, as per details on the debit side.	.....	96 12 0		
180	July 16th ...	Paid to and account closed.	.....	138 15 3									
				236 7 3							236 7 3		

3-8-77

THE LAND ACQUISITION ACT, 1870.

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ACT No. X of 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 1*st April* 1870.)

An Act for the acquisition of land for public purposes and for Companies.

Preamble.

WHEREAS it is expedient to consolidate and amend the law for the acquisition of land needed for public purposes and for Companies, and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows:—

PART I

PRELIMINARY.

Short title.

1. This Act may be called "The Land Acquisition Act, 1870:"

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the first day of June 1870.

Repeal of Acts.

2. On and from such day Act No. VI of 1857 (*for the acquisition of land for public purposes*), Act No. II of 1861 (*to amend Act No. VI of* 1857), and Act No. XXII of 1863 (*to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken*), shall be repealed.

All references made to any of the said Acts in subsequent Acts, orders, or contracts, shall be read as if made to this Act.

Interpretation-clause.

3. In this Act—

"Land."

The expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

"Person interested."

The expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act:

"Collector."

The expression "Collector" means the Collector of a District, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act:

"Court."

The expression "Court" means, in the Regulation Provinces, British Burma and Sindh, a principal Civil Court of original jurisdiction,

and in the Non-regulation Provinces other than British Burma and Sindh, the Court of a Commissioner of a Division,

unless when the Local Government has appointed (as it is hereby empowered to do) either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer:

"Company."

The expression "Company" means a Company registered under the Indian Companies' Act, 1866, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent;

"Entitled to act."

And the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics, or idiots themselves, if free from disability, could have acted.

PART II.

ACQUISITION.

Preliminary Investigation.

Power to enter and survey.

4. Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the local Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

Thereupon it shall be lawful for any officer either generally or specially authorized by such Government in this behalf, and for his servants and workmen,

to enter upon and survey and take levels of any land in such locality:

to dig or bore into the sub-soil:

to do all other acts necessary to ascertain whether the land is adapted for such purpose:

Power to mark out line.

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon:

to mark such levels, boundaries, and line by placing marks and cutting trenches;

Power to clear land.

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence, or jungle.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Previous notice of entry.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Payment for damage.

Declaration of intended Acquisition.

6. Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

Declaration that land is required for a public purpose.

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid out of public revenues, or out of some Municipal Fund, or by a Company.

The declaration shall be published in the local official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

Contents of declaration.

The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

Declaration to be evidence.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

After declaration, Collector to take order for acquisition.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section four) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

Land to be marked out and measured.

Plan.

9. The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Notice to persons interested.

Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice) and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests.

Contents of notice.

The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the Revenue District in which the land is situate.

Notice to occupiers.

In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post.

10. The Collector may also require any such person to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor,

Power to require statements as to names and interests.

mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Persons required to make statements to be deemed legally bound to do so.

Every person required to make or deliver a statement under this section or section nine, shall be deemed to be legally bound to do so within the meaning of sections one hundred and seventy-five and one hundred and seventy-six of the Indian Penal Code.

Enquiry into Value and Claims.

Enquiry into value and amount of compensation.

Tender.

11. On the day so fixed, the Collector shall proceed to enquire summarily into the value of the land and to determine the amount of compensation which in his opinion should be allowed therefor, and shall tender such amount to the persons interested who have attended in pursuance of the notice.

Power to summon witnesses.

For the purpose of such enquiry, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (as far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

Postponement of enquiry.

12. The Collector may, if no claimant attends pursuant to the notice, or if for any other cause he thinks fit, from time to time postpone the enquiry to a day to be fixed by him.

Matters to be considered and matters to be neglected.

13. In determining the amount of compensation the Collector shall take into consideration the matters mentioned in section twenty-four and shall not take into consideration any of the matters mentioned in section twenty-five.

Award by Collector.

Award in case of agreement as to compensation.

14. If the Collector and the persons interested agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

Such award shall be filed in the Collector's office and shall be conclusive evidence, as between the Collector and the persons interested, of the value of the land and the amount of compensation allowed for the same.

Award to be filed and to be evidence.

15. When the Collector proceeds to make the enquiry as aforesaid, whether on the day originally fixed for the enquiry or on the day to which it may have been postponed,

Reference where no claimant attends, or if Collector and persons interested cannot agree.

if no claimant attends,

or if the Collector considers that further enquiry as to the nature of the claim ought to be made by the Court,

or if any person whom the Collector has reason to think interested does not attend,

or if the Collector is unable to agree with the persons interested who have attended in pursuance of the notice as to the amount of compensation to be allowed,

or if upon the said enquiry any question respecting the title to the land or any rights thereto or interests therein arise between or among two or more persons making conflicting claims in respect thereof,

the Collector shall refer the matter to the determination of the Court in manner hereinafter appearing.

Taking Possession.

16. When the Collector has made an award under section fourteen or a reference to the Court under section fifteen, he may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances.

Power to take possession.

17. In cases of urgency, whenever the Local Government so directs, the Collector (though no such reference has been directed or award made) may, on the expiration of fifteen days from the publication of the notice mentioned in the first paragraph of section nine, take possession of any waste or arable land needed for public purposes or for a Company.

Power to take possession in cases of urgency.

Such land shall thereupon vest absolutely in the Government free from all encumbrances.

The Collector shall offer to the persons interested compensation for the standing crops and trees (if any) on such land; and in case such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions herein contained.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

Collector's statement on reference to court.

18. In making a reference under section fifteen, the Collector shall state for the information of the Court, in writing under his hand,

(*a*) the situation and extent of the land needed,

(*b*) the names of the persons whom he has reason to think interested in such land,

(*c*) the amount awarded for damages and paid or tendered under sections five and seventeen, or either of them, the amount of compensation tendered for the land under section eleven, or, if no claimant has attended pursuant to the notice mentioned in section nine, the amount of compensation which the Collector is willing to give to the persons interested, and

(*d*) the grounds on which the amount of compensation was determined.

Service of notice.

19. The Court shall thereupon cause to be served on each of the persons so named a notice requiring him (if he has not made a claim under section nine) to state to the Court, on or before a day to be therein mentioned, the sum which he claims as compensation for his interest in the land so needed.

The Court shall also cause a notice to be served on the Collector and each of such persons requiring them to appoint, on or before a day to be therein mentioned, two qualified assessors (one to be nominated by the Collector and the other by the persons interested) for the purpose of aiding the Judge in determining the amount of the compensation.

If no claimant has attended pursuant to the notice mentioned in section nine, the Court shall cause to be affixed on some conspicuous place on or near the land needed a notice to the effect that, if the persons interested in such land do not, on or before a day to be therein mentioned, appear in Court and state the nature of their respective interests in the land and the amount and particulars of their claims to compensation, and nominate a qualified assessor, the Court will proceed to determine such amount.

Power to appoint an assessor.

20. In case of failure to nominate either of such assessors within the time so specified, the Judge shall himself appoint an assessor in his stead.

Determination of amount.

21. As soon as the assessors have been appointed, the Judge and the assessors shall proceed to determine the amount of the compensation.

Appointment of new assessor.

22. If before such amount is determined, any of the assessors dies or desires to be discharged, or refuses or neglects, or becomes incapable to act, the party by whom he was appointed may appoint some other qualified person to act in his place.

If the assessor so dying, or desiring to be discharged, or refusing, or neglecting or becoming incapable were appointed by the Judge,

or, in the case of an assessor appointed by either party, if for the space of seven days after notice from the Court for that purpose the party who appointed such assessor fails to appoint another,

the Judge shall appoint some other qualified person in his stead.

Powers of new assessor.

Every assessor so substituted shall have the same powers as were vested in the former assessor at the time of his so dying or desiring to be discharged, or refusing or neglecting or becoming incapable.

Proceedings to be in open Court.

23. Every proceeding under section twenty-one shall take place in open Court, and all persons entitled to practise in any Civil Court shall be entitled to appear, plead, and act, or to appear and act (as the case may be), in such proceeding.

Matters to be considered in determining compensation.

24. In determining the amount of compensation to be awarded for land acquired under this Act, the Judge and assessors shall take into consideration—

First, the market-value, at the time of awarding compensation, of such land:

Secondly, the damage (if any) sustained by the person interested, at the time of awarding compensation, by reason of severing such land from his other land:

Thirdly, the damage (if any) sustained by the person interested, at the time of awarding compensation, by reason of the acquisition injuriously affecting his other property, whether moveable or immoveable, in any other manner, or his earnings; and

Fourthly, if, in consequence of the acquisition, he is compelled to change his residence, the reasonable expenses (if any) incidental to such change.

Matters to be neglected in determining compensation.

25. But the Judge or assessors shall not take into consideration—

First, the degree of urgency which has led to the acquisition:

Secondly, any disinclination of the person interested to part with the land acquired:

Thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit:

Fourthly, any damage which, after the time of awarding compensation, is likely to be caused by or in consequence of the use to which the land acquired will be put:

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired:

Sixthly, any increase to the value of the other land of the person interested, likely to accrue from the use to which the land acquired will be put; or

Seventhly, any outlay or improvements on such land made, commenced, or effected with the intention of enhancing the compensation to be awarded therefor under this Act.

* Whether or not they agree with each other. 14 Suth. R. 225.

26. Where the person interested has made a claim to compensation, pursuant to any notice mentioned in section nine or in section nineteen, the amount awarded to him shall not exceed the amount so claimed, or be less than the amount tendered by the Collector under section eleven.

Rules as to amount of compensation.

Where the person interested has refused to make such claim, or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded may be less than, and shall in no case exceed, the amount so tendered.

Where the person interested has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him shall not be less than, and may exceed, the amount so tendered.

The provisions of this and the two preceding sections shall be read to every assessor, in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded under this Act.

27. The opinion of each assessor shall be given orally, and shall be recorded in writing by the Judge.

Record of assessors' opinions.

28. In case of a difference of opinion between the Judge and the assessors or any of them upon a question of law or practice or usage having the force of law, the opinion of the Judge shall prevail, and there shall be no appeal therefrom.

Difference on questions of law.

29. In case the Judge and one or both of the assessors agree as to the amount of compensation, their decision thereon shall be final.

Agreement as to amount of compensation.

30. In case of difference of opinion between the Judge and both of the assessors as to the amount of compensation, the decision of the Judge shall prevail, subject to the appeal allowed under section thirty-five.

Difference as to the amount of compensation.

31. Every assessor appointed under this Act, not being an officer of Government, shall receive such fee for his services as the Judge shall direct, provided that such fee shall not exceed five hundred rupees.

Assessors' fees.

Such fee shall be deemed to be costs in the proceeding.

Costs of proceedings taken by order of Court.

32. The costs of all proceedings taken under this Part by order of the Court shall, in the first instance, be paid by the Collector.

Party to pay costs.

33. Where the amount awarded does not exceed the sum tendered by the Collector, the cost of all proceedings under this Part shall be paid by the person interested.

Where the amount awarded exceeds the sum so tendered, such costs shall be paid by the Collector.

Awards to be in writing.

34. Every award made under this Part shall be in writing signed by the Judge and the assessors or assessor concurring therein, and shall specify the amount awarded under the first clause of section twenty-four, and also the amounts (if any) respectively awarded under the second, third, and fourth clauses of the same section, together with the grounds of awarding each of the said amounts.

Award to state amount of costs.

It shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

Recovery of costs.

The costs (if any) payable by the person interested, and not deducted under section forty-two, may be recovered as if they were costs incurred in a suit, and as if the award were the decree therein.

Appeal from Judge's decision as to compensation.

35. If the Judge differs from both the assessors as to the amount of compensation, he shall pronounce his decision, and the Collector or the person interested (as the case may be) may appeal therefrom to the Court of the District Judge, unless the Judge whose decision is appealed from is the District Judge, or unless the amount which the Judge proposes to award exceeds five thousand rupees, in either of which cases the appeal shall lie to the High Court.

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure for regular appeals in suits.

* Precludes the High Court in the exercise of its appellate jurisdiction, 13 Bengal. 189.

Provisions of Code of Civil Procedure made applicable.

36. The following provisions of the Code of Civil Procedure

(*a*) as to adding parties,

(*b*) as to adjournment,

(*c*) as to death, marriage, and bankruptcy or insolvency of parties,

(*d*) as to summoning witnesses and their attendance,

(*e*) as to examination of parties and witnesses,

(*f*) as to production of documents, and

(*g*) as to commissions to examine absent witnesses and to make local enquiries,

shall apply, so far as may be, to proceedings before the Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

37. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

38. When the amount of compensation has been settled under section fourteen, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

Determination of proportions.

39. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under section thirty-eight, the Judge sitting alone shall decide the proportions in which the persons interested are entitled to share in such amount.

An appeal shall lie from such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie in the first instance to the District Judge.

Every appeal under this section shall be presented within the time and in manner provided for regular appeals in suits.

PART V.

PAYMENT.

Payment of compensation to whom made.

40. Payment of the compensation shall be made by the Collector according to the award to the persons named therein, or, in the case of an appeal under section thirty-nine, according to the decision on such appeal.

Proviso.

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

Payment on making award by Collector.

41. When the amount of the compensation has been settled under section fourteen, if the persons interested shall so desire, the Collector shall, on the making of the said award, pay the amount of such compensation and take possession of the land:

Provided that, in any case where immediate possession is not required, he may allow the occupants (if any) of the land to remain in occupation of the same, upon such terms as he and they may agree on, until possession of the land is required.

Percentage on market-value.

42. In addition to the amount of any compensation awarded under Part II or Part III of this Act, the Collector shall, in consideration of the compulsory nature of the acquisition, pay fifteen per centum on the market-value mentioned in section twenty-four.

Payment with interest.

When the amount of such compensation is not paid on taking possession, the Collector shall pay the amount awarded and the said percentage with interest on such amount and percentage at the rate of six per centum per annum from the time of so taking possession.

Provided that the costs, if any, payable to the Collector by the person interested shall be deducted from such amount and percentage.

Time of payment in appealable cases.

Provided that, in cases where the decision of the Court under Part III or Part IV of this Act is liable to appeal, the Collector shall not pay the amount of compensation or the percentage, or any part thereof, until the time for appealing against such decision has expired, and no appeal shall have been presented against such decision, or until any such appeal shall have been disposed of.

PART VI.

Temporary Occupation of Land.

Temporary occupation of waste or arable land.

43. Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

Difference as to compensation.

In case the Collector and the persons interested differ as to the sufficiency of the compensation, the Collector shall refer such difference for the final order of the Court.

Power to enter and take possession.

44. On payment of such compensation, or on executing such agreement, or on making a reference under section forty-three, the Collector may

enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

Restoration of land taken.

And on the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

45. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference for the final order of the Court, and on such reference, or on a reference under section forty-three, the Judge sitting alone shall decide the difference referred.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

Company may be authorized to enter and survey.

46. Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section four.

Construction of sections four and five.

In every such case section four shall be construed as if, for the words "for such purpose," the words "for the purposes of the company" were substituted, and section five shall be construed as if, after the words "the officer," the words "of the Company" were inserted.

Consent of Local Government to acquisition.

Execution of agreement.

47. The provisions of section six to section forty-five (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, and unless the Company shall have executed the agreement hereinafter mentioned.

Previous inquiry

48. Such consent shall not be given unless the Local Government be satisfied, by an enquiry held as hereinafter provided—

(1) that such acquisition is needed for the construction of some work, and

(2) that such work is likely to prove useful to the public.

Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

Such officer may summon and enforce the attendance of witnesses, and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

Agreement with Secretary of State in Council.

49. Such officer shall report to the Local Government the result of the enquiry, and if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council providing to the satisfaction of the Local Government for the following matters, namely—

(1) The payment to Government of the cost of the acquisition:

(2) The transfer, on such payment, of the land to the Company:

(3) The terms on which the land shall be held by the Company:

(4) The time within which, and the conditions on which, the work shall be executed and maintained; and

(5) The terms on which the public shall be entitled to use the work.

Publication of agreement.

50. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette of India* and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

PART VIII.

MISCELLANEOUS.

Service of notice.

51. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section four, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business.

Obstruction to survey, &c. Filling trenches. Destroying land-marks.

52. Whoever wilfully obstructs any person in doing any of the acts authorized by section four or section eight, or wilfully fills up, destroys, damages, or displaces any trench or mark made under section four shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate to enforce surrender.

53. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay)

to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Government not bound to complete acquisition.

54. Except in the case provided for in section forty-four, nothing in this Act shall be taken to compel the Government to complete the acquisition of any land unless an award shall have been made or a reference directed under the provisions hereinbefore contained.

Compensation when acquisition is not completed.

But whenever the Government declines to complete any such acquisition, the Collector shall determine the amount of compensation due for the damage (if any) done to such land under section four or section eight, and not already paid for under section five, and shall pay such amount to the person injured.

Part of house or building not to be taken.

55. The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory, or other building, if the owner desire that the whole of such house, manufactory, or building shall be so acquired.

Payment of Collector's charges by Municipal Body or Company.

56. Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any Municipal Fund, or of any Company, the charges incurred by the Collector in such acquisition shall be defrayed from or by such Fund or Company.

Exemption from stamp-duty and fees.

57. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Bar of suits to set aside awards under Act.

58. No suit shall be brought to set aside an award under this Act.

Limitation of suits for anything done in pursuance of Act.

And no suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof,

nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.*

Power to make rules.

59. The Local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

Publication of rules.

All such rules, alterations, and additions shall, when sanctioned by the Governor-General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

* Repealed, so far as it relates to the limitation of suits, by Act No. IX of 1871, Section 2.